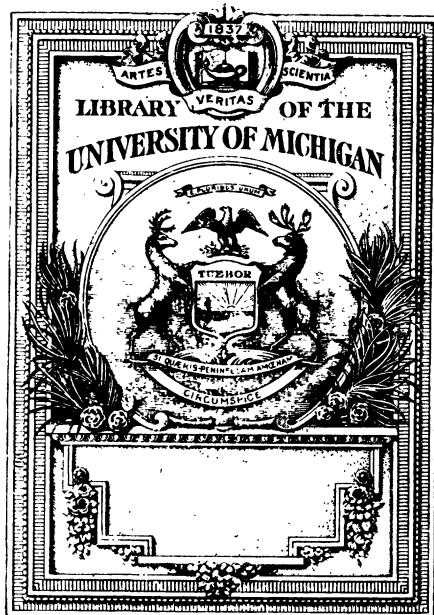


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PARTY GOVERNMENT
IN THE UNITED STATES

PARTY GOVERNMENT IN THE UNITED STATES OF AMERICA

BY

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P R E F A C E

ALL but a few of the chapters in this volume were delivered in German at the Universities of Berlin and Munich. The author was Roosevelt Professor for the academic year 1912-13. They were prepared for an audience of German students, without thought of publication, and were based both largely and freely on three books: Johnston's *American Politics*, several times edited and enlarged by the present writer; Bryce's *American Politics*, and Ford's *Rise and Growth of American Politics*. The other available authorities were also consulted and used. In their German form the lectures found favor with the general as well as the academic public, and were published last year by Koehler in Leipsic. By the request of Messrs. Harper & Brothers they now appear in English, revised and brought down to date. The selection, arrangement, and treatment of material are the author's. He desires to express his grateful acknowledgment of indebtedness to the predecessors whose labors made possible the performance of a difficult but pleasant task. The work has been done primarily for students and teachers whose field is the development of American institutions; but likewise for serious readers desirous of understanding how our government has come to assume its present form. Having met with success abroad, it is hoped that the book will prove of even higher value at home.

WILLIAM MILLIGAN SLOANE.

NEW YORK, *July* 31, 1914.

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PARTY GOVERNMENT IN THE UNITED STATES

INTRODUCTION

THE substance of political history, as of military or religious or scientific history, is "Perpetual motion": "Rest elsewhere." The United States of America have from the outset been continuously in political flux. They have radically changed their internal and federal relations, their economic relations, their international relations. The colonial period was marked by intercolonial disputes, but intracolony affairs were comparatively restful and stagnant. From the moment of union and independence, however, politics, both internal and external, became the general passion, the universal sport, the controlling interest of men and women in every walk of life, in every class, and of every stock.

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There were high professions of abstract right, of conscientious conviction, of lofty principle. But while Americans have always resembled the peoples of central and southern Europe temperamentally—probably for climatic reasons—yet in one respect they are and remain radically Germanic and northern: their political principles proceed from and change with standards of utility. Their political philosophy is Baconian, the philosophy of fruit. The country for which I am patriotic must be a country in which I thrive. Well-being is the citizen's test of government; and, consonant with truth, with justice, and with religion, every modification is a fair subject of agitation. The inherent right of the many must at any sacrifice triumph over the inherited right of the few.

The changes in American government which, to those without, appear so radical make no corresponding impression on those within; indeed, it is only a short time ago that a foreign agitator, determined upon turning our social and economic world inside out, withdrew in disgust, after examining conditions for a few months, with the remark that the federal Constitution lay athwart all that he desired to do. These changes which seem to outsiders so radical are really conservative, because they have been the work of parties—American parties, be it well understood, which resemble no others in any substantive way, but are indigenous to American soil. No American party has so far been revolutionary or radical in the European sense, except in so far as European influences have been imposed upon it by foreign affairs or injected into it by naturalized and not native-born citizens.

But all American parties, alike patriotic and na-

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tional, have exercised complete liberty, not to say license, in readjusting, rebuilding, and even destroying within the limits set by the federal Constitution as interpreted by the courts. They have been the more venturesome and noisy because the ultimate responsibility was after all not theirs, but lay with the representatives they selected, the Congress of two chambers; with the Chief Executive and Administrator facing not only his own party, but the whole country; and, finally, with a tribunal removed as far as popular government permits from all influences except those of abstract jurisprudence and dispassionate statesmanship. The attack on existing methods in politics and the creation of new systems has been softened and moderated by the long process, the "far reach," necessary to destroy old ideas and embody new ones where the main springs of government are. It is a marvel that so much has been accomplished. Such repeated achievement is conservative because without endangering institutions it satisfies the American love of change and novelty.

The genesis, nature, and working of these parties is little known in America itself, and not at all elsewhere. There is no satisfactory account in any language of this peculiarly American institution, although two painstaking and able Europeans, Bryce and Ostrogorski, have remarked the phenomenon and described its appearance and its actions. Neither has really touched the root of the matter, however, because neither can possess the elusive, native-born instinct which works socially, economically, and politically to create and perpetuate and modify an extra-legal institution for satisfying what are basic wants of the American nature. The American feels

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himself sovereign, but is not content: he demands the chance to exhibit himself as such. And party agitation within party organization gives him exactly that opportunity without endangering his own political pride or that of any one else. Within the party he has a range for every activity, a safety-valve for every striving of his nature, a training-school for unbridled ambition, and a political arena within which he drills himself into discipline.

It is an amusing exhibition, that of one sovereign among millions of his equals, within the capacious fold of party, at one and the same time gratifying his impulses and learning his utter helplessness except in and through organization. Our visitors and commentators are bewildered by party excess, party opportunism; by the absence, the shift, or the vehemence of principle in parties; by the ever-changing lines of demarcation between parties; by the fickleness of party leaders and party followers; in short, by the party kaleidoscope; until, in despair, one of them says that parties count for more and more, government less and less—"principles grow fainter and fainter; organization more and more perfect." In one brief word, party life is for the American his political education: the more naturalized Americans there are the more of a drill there must be for citizens with a minimum of political tradition, knowledge, or principle, because small instruction with large discipline is apparently the law of education for the European masses emerging into American citizenship of the latest type.

Moreover, his party affords to the American artisan, day-laborer, mechanic, factory or farm hand a measure of his social importance. There has been from the outset a real political cleavage between the

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two great national parties—the question of a strict or loose construction of the national Constitution; but there has also been a social cleavage. Those who have secured opulence and power, whether by personal exertion or by inheritance, and feel safe in their possession, constitute a class, fluid and fluctuating in composition, but yet a class; those who have and expect to have neither fortune nor power constitute another at the far end of the social scale. In between is a great body of ambitious, intelligent, active men and women working for and expecting both wealth and station: these are in natural antagonism to their neighbors on both sides. To these it is essential that dollars should be plenty; to both the others that a dollar should have the highest possible purchasing-power. Hence the two wings combine against the center, as viewed socially—the patrician and the proletariat are one in this interest. Unconsciously they form the strict-construction, free-trade, least-government party, while the others struggle to use the commonwealth, the *res publica*, τὸ κοινόν, for the furtherance of their own welfare, and form the loose-construction, high-tariff, “big-business” party.

Now it is an honorable ambition to desire public service, and, while the unofficial American rather feigns contempt for the public servant, yet few refuse office. And the humblest folk earnestly labor for party success in the hope that some member of the group to which they belong may secure the petty office which gives social distinction to them all. It is this which helps to feed the fires of local patriotism and creates devotion to the smallest political unit; these in turn are contributing to larger politics, to district, State, and national interests wherein

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lie the rewards of high office. Perpetual change in the occupancy of these perplexes and dismays on-lookers; but rotation means the periodic revival of political interest, the distribution of reward among the largest possible number of the fit. It was an Englishman, not an American, who said that any man is good enough for any office he can get.

Throughout the long birth-throes of Great Britain in bringing forth the American Republic it was customary for many English-speaking statesmen to denounce parties and party government in terms of boundless scorn. After the Republic was born and swaddled, that opinion still prevailed among the wisest and best Americans; almost the last admonitory words of Washington were a warning against party strife. Carefully analyzed and examined, this opinion is based on the conviction that the nice adjustments of politics cannot be intrusted to bungling apprentices, but must be made cautiously and tactfully by a trained governing class, an aristocracy of power in some form—station, wealth, discipline, intellect, character. The strife of tongues, the conspiracies of partisans, the meddling of the unfit—all these hinder the smooth flow of events, the march of affairs, the administration of justice. The British colonists who became American citizens by the Treaty of Versailles were of two sorts, difficult to designate or define, but substantially these: a ruling class and—all the rest.

Landed proprietors, great merchants, the professional leaders, the dignitaries of bar and pulpit, men endowed with power in any form, were already a ruling class, composed not exactly but somewhat as was the corresponding class in England. They had held the reins of power before and during the

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long struggle for independence; they were determined to hold them while the new state was put to working, convinced that otherwise the struggles of ten years would have been in vain. They consequently scorned and despised what they understood by party—to wit, the Whig and Tory factions of aristocracy in Great Britain. And their denunciations were efficient. For years there were no parties in America—not until both the existence and the viability of the Republic were alike assured. The so-called Tories of America, the Loyalists, who might have formed a nucleus of opposition, were ruthlessly driven from their homes, exiled to some land where the British flag still waved—the Bermudas, the Bahamas, or Canada. Politically the remaining dwellers within the thirteen colonies and their territories were homogeneous: with almost no exception they had been American Whigs; they were now Americans.

The story of colonial particularism was continued in State particularism, of course; but after the rod of stern necessity had been laid upon the Confederacy, after the Constitution had been unwillingly made and grudgingly adopted, after constitutional government had been put in operation for what was no longer a State federation, but a true federal state, the first symptom of genuine nationality appeared in the slow formation of parties; when recognizable, the line of division had no connection with State affairs, but related solely to general, federal, American politics, both national and international. Both Federalists and Republicans were conservative, both contained social elements of all the strata, both desired to maintain the union of the States; they differed merely in their views as to the degree of con-

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trol by the federal government. With both, certain ideas appeared settled and indisputable—the idea of representation as opposed to delegation, the idea of checks and balances by the division of powers, the sanctity of the law and the judiciary—the idea of government as a contract being the most important.

About these matters they did not differ at all, but in one there was a monarchical, aristocratical, ecclesiastical tendency; in the other a republican, democratic, secular quality. With time these tendencies were found to identify themselves, the former with the Federalists, the latter with the Republicans. By far the largest number, the immense majority, were Protestants; their institutions, laws, manners, style, point of view, and behavior were survivals from those of a Protestant England, mainly the Calvinistic section of it. In short, there was a high degree of homogeneity, with quite a sufficient amount of divergency within the limits mentioned to prevent stagnation. The institution of slavery had been universal, but the Revolution, combined with economic changes, resulted in a marked change of both opinion and practice concerning it, without, however, introducing its existence as a political or party question.

The evolution and development of these embryos is a subject which would justify full and discursive treatment. There has unquestionably been an infancy, a youth, a maturity, and a middle age. Whether there is a decline, an old age, and a senility in the system of party government is the subject of great dispute in America; time alone can determine the fact. But, in whatever stage we regard American parties, there is an impressive identity, beyond per-

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adventure; there is also a process of transformation, a discarding of the old and disused, the appearance of new elements gradually unfolding, the complete efficiency of ideas and machinery dear to the hour, the perpetual affluence, influence, and effluence of the unforeseen and unexpected.

Neither institutions nor law nor government had any place for party machinery at the outset, as we have said, and therefore legislation turned its blind eye and dull regard to their rise. The expression of public opinion by party action had been a fact for two generations before legislation took cognizance of it at all and began tentatively to regulate party membership and party action. Up to this hour the most momentous governmental decisions have been reached by an elaborate system of local, State, and national conventions which are extra-legal, which make their own rules and determine their own actions by an elusive political instinct, working spontaneously and imperiously without governmental control. Their statements of principle, their nominations of men, their suggestions of policy have been the most definite assertions of popular sovereignty made within the vast Republic, and hence its firmest bonds of union; but until very recently there was no effort to embody the institution in justiciable precepts.

This is rapidly changing, and within a few years there has been created a substantial body of legislation controlling party management; these statutory laws are steadily swelling in volume and number, and there is manifest discontent with the older political habits of the people. It is widely believed that under congressional government the representative system has broken down; that with the spread

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of education and enlightenment the people should be able at any moment to direct the making and administration of both law and justice, municipal and international; that the representative should be turned into a delegate; and that all officials, even the judges on the bench, should be removed from office when they do not act efficiently and express at once the popular judgment. Agitation goes even further: not content with turning legislators, administrators, and judges into delegates, it is proposed by means of the initiative and referendum that the people itself should legislate; not only enforce and execute laws, but make them by direct democratic control of individual and public conduct.

It is in this direction that all present-day political action trends. Exactly what is to be the effect of this on party control it is difficult to foresee; but one thing seems sure, that the accepted opinions are snap judgments. That one form of party machinery is disappearing we admit; that the rôle of party principles is less important is likewise true; that government is less and less the affair of a ruling class, transmuted as that class has been from age to age, is equally true. But nationality is stronger than ever, constitutional government is in higher esteem; of the three nineteenth-century shibboleths—nation, constitution, and democracy—the interpretation and definition of the last has become the passion of the early twentieth. In America the relation of American parties to American democracy is the problem, and it is taking on not only political, but economic and social aspects as well.

It would not be difficult to prove almost conclusively that the political feature of greatest significance since 1850 has been the steady growth in

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power of the presidency, until now the American Executive wields a scepter almost, if not quite, as majestic as any still existent and active. Concisely stated, this is due to the fact that more completely than any other department of government the presidency gets its mandate by direct popular vote at comparatively short intervals. It requires six years to change the political complexion of the federal government in its entirety, and even that does not include the federal courts nor the important officials who by the civil-service laws hold their positions virtually for life. But the President can be unseated every four years. A renomination by his party has, to be sure, become a recognized party right, and the failure to secure it a reprimand by his party to his administration. Nevertheless, the party in opposition is always indifferent to any right of that in power, and the party leaders do not make it their first concern, but act mainly under compulsion to secure the popular vote.

So far, therefore, as well as by the system of election and the term of office, the President is the nearest approach to the voice and behavior of the entire people. Senators and Congressmen come from districts and States; even the judges have locality connections; but the President is representative of the whole people, and is their delegate as well; at least, for four years, he must be that if he desires re-election. To this end he must be sensitive to all popular movements. Should he have a second term, even then he is not merely President of the whole people, he is likewise the national leader of his party. Hence his unforeseen and undesirable political power. He creates the federal judiciary, instructs Congress, influences legislation, and even

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controls, or at least absorbs in enormous measure, public opinion. All this he does, therefore, primarily as a party leader, for it is the party machinery which produces voters at the polls and measurably determines their votes. The enlargement of presidential power is, therefore, not monarchical imperialism, but pure democracy.

This word "imperialism" has been strangely distorted in meaning and carries to many minds a mystical sense which it does not possess. American imperialism means territorial expansion, as does French or any other imperialism, under the existing government. This implies extending the sovereignty of a system known as American where it did not before exist. The moral basis of this procedure is found in exploration or discovery, in conquest, in purchase, as hitherto; but this concept also has been or is in process of being enlarged. Many now say that all this does not suffice; that only those have a right to portions of the world's territory who make the best use of them, exploiting them so as to sustain the largest population in the highest civilization; that savagery and barbarism have no prescriptive right. Further, that the will of a civilized population can alone determine its allegiance; and, lastly, that no power can be suffered to maintain a nuisance at its neighbor's door, especially such as endangers health and life. It was on this basis that we intervened in Cuba to destroy the menace of yellow fever and establish a government which was strong to keep order and maintain systems of sanitation and preventive medicine. The whole Western world gave passive approval to the treatment of Korea by Japan, because the former had relapsed into a state of atrophy. Intervention to prevent the Ital-

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ian conquest of Tripoli was very difficult, indeed impossible, because every Western nation maintains the right of a higher civilization to battle with a lower, not merely for existence, but for its introduction and establishment and expansion. This is another vitally important class of questions which have entered the arena of party struggles in America. World-politics, especially the so-called Monroe doctrine in all its chameleon-like transfigurations, has become a determining element in the consolidation and activities of party life in its latest form.

It is a fact that far and near the word "equality" has secured a sacrosanct and mysterious meaning. The doctrine of equality is the very corner-stone of modern legislation, especially of the whole system of public and international law. Yet the ruling passion of mankind is for inequality—for personal, social, national superiority. Intelligent Americans hold that this struggle between antinomies is best fought in party life, or in social life under the fewest possible restraints of government. Habit counts for much in the stability of society—the sanction of force, coercion, likewise liberty under law as it is expressed. Both forms of restraint have the least galling activity in the extra-legal field of party discipline, and the right of a minority to turn itself into a majority, the right to overthrow constituted authority, find free play in fields where they are not destructive of the sane conservatism in government which is the foundation of order.

This matter of finding what equality means, not alone by the pure but by the practical reason as well, is another of the subjects, and not the least important, which is engaging American parties at the present hour. It should be the purpose of in-

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telligent Americans to apprehend how, genetically and theoretically, these dawning forces—imperialism, democracy, and equality—are likely to influence the movement of politics in America. What has been done with constitutions, with nationality, and with representative democracy ought to shed some light on what will be done with expanded nationality or imperialism, with the new radical democracy of the multitude, and with the stern limitations on license hitherto imposed by a respect and worship of rigid constitutions.

I

AMERICAN PARTIES

Definition of party—When and why two real parties—Minor political groups—When and why several parties—Block—Parties and social classes—Constitution, not charter, essential—Approach of constitution and charter—Definition of party in America—Tripartite origin of the two parties—Aims of the parties.

WHEN we speak of parties in America we give what may seem a very restricted meaning to the word party.

1. A true party must consist of a very large number of voters residing under a constitutional government in a free nation, republican or monarchical. Pure democracy can exist only in states comparatively small.

2. All citizens of such a state identified with party must heartily support the form of government under which they live and entertain no desire for its overthrow.

Where there are true parties there will generally be two and two only, provided power reside in the people and ascend from them upward through the grades of their elected officers. The division will thus relate not to theories, but to facts: to the possession or loss of office—"ins and outs"—to policy and behavior in office, to matters of internal or external relations, to questions of taxation and administration.

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Each of the two real parties being concerned with immediate and practical results, there will be reformers and idealists unable to secure recognition for their respective notions by the regular parties, and these form what are styled cabals, cliques, factions, groups, which agitate for principles that may at some time more or less distant enter the field of practical politics. Sometimes these groups coagulate into one, two, or three minor bodies, each collectively so numerous as to deserve the name of party.

On the other hand, when power descends from the top downward there will be surely more than two parties, three at least—the right, the left, and the center. These often merge imperceptibly into one another by intermediary groups, and the term “block” has been used for the agreement among several such groups to secure a majority in support of government measures. In this case it happens that there are substantial numbers united against certain policies and measures, frequently even embittered in their hostility to the form of government under which they exist and determined as far as in them lies to subvert it. It is in such groups that class hostility very often embodies itself.

Class hostility, or at least interest, plays a determinative rôle in all known forms of free government. In America, at any rate, one of the two great parties has, as was said earlier, generally contained the top and the bottom strata of the social order, while the other has consisted of a middle stratum exploiting the lowest class and clambering into the highest. Those who have long enjoyed wealth and social distinction find their natural alliance with the poorest, the voters whom they scarcely know and with

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whom they have almost no contact. The fact that under any given system there is no permanence in social rank, that classes are fluid, that persons rise and fall continually, does not affect the fact that for the time being class distinctions largely determine party affiliation. But there is no class despotism, no ostracism of class by class; all accept the system which they believe best conserves the common interest; all consent that all classes, social, race, and economic, shall share alike in trust and responsibility.

Parties in our sense of the word can only exist under a constitution through which they secure power and under which they assume responsibility. There is under a charter abundant room for groups in the legislature differing from one another about measures laid before them, yet bound by the restrictions of a higher authority; but even a union of such groups does not constitute a true party. Of course, there has never been either constitution or charter complete, entire, finished, logical. No constitution made by popular convention and validated by popular vote, if written, nor generally accepted and operating, if unwritten, has completely expressed the political habits of any people. No charter granted by royal decree has ever set forth, or even fully suggested, the political habits to be formed or the convictions underlying them. One is presumed to formulate the degree of power, the share of government delegated by the people to its rulers; the other the share delegated by the ruler to the people. It is unnecessary to remark that nothing better than an approximation has ever been secured, that in the wide range between constitution and charter there is every degree of approach by one to the other. But one thing

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is certain, that parties become a more important factor in government almost exactly in proportion as the Chief Executive is that and that alone, as he confines himself to the administration of laws corresponding to the public morals.

Historical forces do not work in detail with exquisite precision, at least as finite powers of mind may know them; possibly they do in the large, though the diameter of such wheels transcends our knowledge. A reason is found for this in the change and growth of all social elements. Constitutions vary and verge toward charters; charters are modified by general behest and consent into a very near approach to constitutions. Courts, legislatures, and even executive habits have modified the federal Constitution of America until in both State and federal government we are not far different from an elective monarchy. Nevertheless our constitutions are and will remain far more permissions by the people to its rulers than mandates by government to its subjects.

The word party in America applies, therefore, to a great body of voters loyal to their governments, recognizing all classes, whether based on economic or social differences, as being alike American, as being alike concerned with administration under the national Constitution and its bills of rights, with the making, amending, and working of their State constitutions, which are partly declarations of right, partly statements of political devices, partly, and in considerable degree, legislative enactment by popular convention—*i. e.*, by extra-legal popular legislation.

The two great American parties have thus a tripartite origin: first, in the strict or loose construction of the federal Constitution; second, in the conflict

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of social and economic forces within the respective States; third, in the relations of State and federal governments under successive conditions. But not for an instant has there been entertained a suggestion by either of attacking the fundamental questions of society: inherent rights, popular government, the Church, the family, property. The great rebellion of 1861 was not a party matter. It was an effort by a social class, based on certain economic conditions, to split the one federation, to reproduce another by scission. But it was not an effort to change a system of government: the constitution of the Confederate States did not widely differ from that of the Union; under it there were the nuclei of two parties ready to battle, when peace should come, for supremacy at the polls. There have been outside parties concerned with the drink question, the property question, the race question, but they did not greatly impress the two great parties with whose history we are mainly concerned.

II

LIBERTY

Relation of theory and fact in the politics of Anglo-Saxons—The doctrine of total depravity in relation to politics—Freedom of choice in religious and secular affairs—Degree of government—Early American politics and liberty—Struggle for emancipation—Expansion of the suffrage in America—Parties under the Stuarts and Cromwell—Parties under the House of Hanover—Whig and Tory in England and America.

MANY rills have contributed to the current of American life, but the fountainhead was British. No other people has produced more political theorists and idealists, but it is an amusing circumstance that in the history of political philosophy there is a broad cleft between the Northern and the Mediterranean peoples. Among what are broadly called Anglo-Saxons, and to a great extent among Teutons, the theory is made after the fact, being a creed to justify conduct. Among other Europeans the reverse has been true; terrific efforts have been put forth to reduce pure theory to practice. The reason is plain. With us of the North politics is a matter of personal conviction and historical experience; elsewhere it is an affair of social conviction and philosophic speculation.

To illustrate: the medieval world was a unit on the question of human depravity; the modern world is split in two, Christians maintaining their old doctrine, so-called liberals and philosophers main-

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taining the reverse. The conviction that the things of this world, including men, are all wrong supplies, of necessity, the corollary that the salvation of man here and hereafter can only be by personal effort, individual exertion. There is no immortal social soul: only the person, the one, male or female, the man or the woman, has immortality. To secure an immortality of reward he or she must make a choice of the means provided or reject them.

According to this plain and simple doctrine, in which the wayfaring man may not err, the choice once made, the consequences accepted, every one must be free to follow his road, the broad and easy one which leads to destruction, the hard and narrow one which leads to life everlasting. The arrangement of life must therefore be as unhampered as possible by conditions for which the individual can have no responsibility. Compulsory goodness is not goodness at all; conduct is the consequence of belief and of the will at work.

This is one form of the puritan doctrine of immediacy, and those who hold it must needs demand a minimum of control, the least possible government. The limitation of human action by moral or physical force is an evil—necessary, but an evil. How much is essential to the “τὸ κοινόν,” “the *res publica*,” the “common wealth,” can only be settled by experience, but it can be somewhat delimited by theory. Among the American colonists, who were nearly all Calvinists, English, Scotch, and a few French, with a sprinkling of Roman Catholics and still fewer Lutherans, religious principle and worldly experience were the twin tests of political conduct; and personal liberty, not to say license, was a passion.

In reality it was liberty to do under secular polity

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what ecclesiastical polity required. This was strict to the verge of despotism, and when Roger Williams demanded a secular state in which Baptists might practise Baptist polity he had to withdraw from a commonwealth of Independents, as they had withdrawn from the English establishment. The demand for religious liberty conditioned political liberty along the whole Atlantic seaboard of North America throughout the seventeenth and eighteenth centuries.

To this must be added the Anglo-Saxon temperament, one element in which is an inborn spirit of contention. The history of England and America is a narrative of jealousy, of restlessness, of conflict, and, for considerable periods, of anarchy—not religious or social anarchy, but political. The beginnings of political life were defiance of kings, then of aristocracy, of privilege, and above all of mob-rule. No king has been more despised or distrusted by Anglo-Saxons than has been King Demos. At the outset of contemporary history even the suffrage was not regarded as an inherent right of man, but rather as a privilege to be given and regulated by the body politic. Generally speaking, manhood suffrage was not an American institution until after the first third of the nineteenth century. The esteem in which Roman citizenship was held diminished directly in proportion to its extension; exactly so with manhood suffrage in the United States, until now there is talk of legislating for its compulsory exercise. The coming womanhood suffrage, a strictly logical evolution of the theory now prevalent which holds the suffrage to be an inherent human right, will probably reduce its exercise to a burdensome duty; it certainly will still further diminish its value. If

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there be anything sure in the example of history it is that the broader the democracy, the more certain sooner or later will be its centralization under a one-man power, legal or illegal.¹

The American colonists, being British—British dissenters, at that, both religiously and politically—intelligent, therefore, and pugnacious, kept thoroughly abreast of their home affairs. They had observed from afar the tyranny of the Stuarts, although they felt it but little and reveled in the wholesome neglect of their affairs by the home government, enjoying its victories (New Netherlands) and suffering little from its defeats. In the latest and most accurate definition of the word there were no parties in Great Britain until the war of the American Revolution. But there were under the Stuarts combinations of aristocrats, with some burgher and some yeoman followers, which were styled parties—court and country parties; Cavaliers and Roundheads under the Revolution and Protectorate; Whigs and Tories after the establishment of Royalty in the Protestant succession of Stuart and Hanoverian lines. With the accession of George I. the old Toryism died, and until George III. was well seated on the throne there was but a single party, that of the Whig oligarchy: it was with relation to every department of political life, internal, external, and colonial, that the young king found himself hampered by parliamentary control in his determination to rule as well as reign, and it was in order to be his own premier that he began to create a body of “King’s Friends” by means of place-bribery and patronage, a body which later became the New Tories, a parlia-

¹ Note the steady encroachment of the executive on the legislative during the past ten years.

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mentary party opposed to the Whigs. These divisions at Westminster naturally found a certain adumbration in the colonies, but it was only an adumbration. The true cleavage was between those who were loyal to the home government and those who were not.

Wherever, therefore, the words Whig and Tory were used in America they had a significance quite different from that which they had in England itself; at least the former had, and to emphasize the fact the noun was modified by the adjective "American," so generally that at the close of the colonial period the phrase "American Whig" was in very extensive use. In a broad sense it meant a colonial patriot of liberal views. The British Whig had sympathy with the American, but he was a loyal Briton, while the other was devoted to his colony and the struggle for the least possible British control. The American Tory did not differ materially from the British Tory except in the fact that he could not feel at home in the country which he called home—*viz.*, Great Britain—such was the haughty contempt of the English in England for the English either in or from the colonies. Both Whigs and Tories were to be found in each of the colonies, though some, like Massachusetts and Virginia, were overwhelmingly Whig, and others, like New York and Pennsylvania, had a preponderance of Tory influence.

III

CONSTITUTIONS AND ELECTIONS

Detestation of party—No theoretical separation of powers—Inherited institutions—The presidency a development of governor's office—Evolution of the legislature—System of courts changed least of all—The High Court of States: Supreme Court of United States—Social classes—Resemblance—Difference—Absence of discontent—British attitude toward America—The effect of environment on inchoate institutions.

It is now a well-known fact that every single feature of government embodied in the Constitution of the United States was taken from devices existing in at least one of the State constitutions, and that its makers not only neglected to provide for party machinery, but were hostile to party government. The devices which they selected from among the political habits of the people were those most likely to minimize partisan agitation, notably that of the electoral college for choosing a President. There was no idealism or theory in the American Revolution: there were not even any definite, logical, adequate causes for it, except the all-sufficient one of distance from the metropolis. Had communication between New York and London been what it is to-day, most probably there would have been no separation. The colonial institutions were frankly English institutions; State institutions as embodied in State constitutions modified them slightly in the light of experience; the federal Con-

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stitution made such further modifications as were essential under the federal system. Party government was left to care for itself within the States.

Each of the colonies had a form of government under an executive who was also the representative of sovereignty—that is, of the British crown. In eight he was appointed by the crown, in three by the proprietor, and in two he was elected. In four he was styled president, in the rest governor. In one, North Carolina, he had the power to fill vacancies by commission, to run until the expiration of the term set by law for the office so filled. In another, New York, he could and did communicate with the legislature by message. In all the royal provinces and the proprietary colonies he had the right of veto. Eight provided for the process of impeachment. In Maryland there was a system so close to the electoral college created by the Constitution that many believe even that conception, ordinarily considered the one theory of the Constitution, was really historical, like its other provisions. Of one fact there can be no doubt, that the office of President is a development and modification, not of English kingship, but of the executive office in the colonies, eliminating necessarily the representation by that office of a foreign sovereignty; and hence, also because of its earlier appointive character, it became of necessity elective, not by direct but by indirect election.

Something quite similar occurred in connection with the State and federal legislatures. All the colonies had possessed a measure of representative government, and, as all had had a chief executive, so they all except Pennsylvania had a legislature comprising two houses, one at least of these being

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elective; the upper either partly elective, partly appointive, or entirely appointive, and the lower elected by those who possessed the privilege of the suffrage. When the colonies became States they retained the bicameral system and made both chambers elective. As was the case in regard to the President, so likewise the federal Constitution made a selection from all the State constitutions in regard to the legislature. In seven States the Upper House was called the Senate; in five the Lower was styled the House of Representatives; four had the rotation system in the Senate, and the provisions for organizing and administering in the two Houses are in all substantially the same. The compromise whereby the Senate represents the States and the House the people was possibly, but not probably, taken from a custom of one New England State, Connecticut. The provision which made it a council of appointment was found in the constitution of New York. In two States money bills could originate only in the Lower House.

As regards the remaining department of government, the colonies all had a virtually identical system of courts. This was naturally British, but it was British with a colonial modification. In each colony there were justices of the peace, county courts, a high court, and an appeal to the King in council. With a few rare exceptions and unimportant changes, this arrangement was continued in the States, and likewise with very few exceptions the judiciary was appointive, the office of judge was retained by its incumbent *quamdiu se bene gesserit*—"during good behavior"—and the supremacy of the law in all respects was unquestioned.

Such was the state, importance, dignity, and

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weight of the high courts that several instances have been found in which the Supreme Court of a State, under the Confederacy, assumed and exercised the right to pass on the constitutionality of laws. This provision of the federal Constitution is, like the others, historical and not theoretical. It may be added that the social classes in the new States were identical with those in the old colonies, except that the upper class was numerically weakened by what was either a moral or an actual physical expulsion of the Tories. For this reason the municipal institutions were slightly modified, while the local, rural institutions were not changed in the slightest degree.

This was largely due to the stability of social classes. There were, and there remained, what may be called upper, middle, and lower classes. The patrician class, "*more Britannico*," embraced the large landowners, the great merchants, the clergy, the scholars, and some who, although they were none of these things, were the descendants of European aristocrats without capital or even occupation, younger sons seeking what other younger sons had found—wealth and station. This, in a very important sense, was a ruling class. It was not fixed, but constantly lost and constantly gained a considerable portion of its members. There was also a class largely outnumbering the other: farmers, traders, townsmen, upper artisans, and master mechanics, teachers, and the like. The majority of these possessed the suffrage; many held minor offices, both in Church and in State; all were educated in grammar-school branches, were eager readers and debaters; the information they sought and found regarding British politics was extensive. The third class comprised all laborers, slaves, wage-earners of

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every description. Their quality was much the same as that of the corresponding social stratum in Europe.

But they differed from it by the whole universe in one respect: that with thrift and industry they could rise with ease, stage by stage, to any social standing they could win and hold, even the highest. It is amazing how trifling was the discontent, how inchoate was the democracy in the sense of equalitarianism, which existed. There is substantially no literature of either, even epistolary. There was no faintest conception of religious liberty. Puritans in New England persecuted Quakers and drove off Baptists; Virginia Episcopalians hounded dissenters after the true British fashion; New York excluded Jews and Catholics from the suffrage. Toleration there was, in the eighteenth-century way; a toleration, however, which broadened and became rapidly catholic. Slavery was universal, at least wherever economic conditions made it possible.

So limited is human capacity that throughout the history of colonization colonial government always appears like a travesty and caricature of home government to its contemporaries of the metropolis. The English British were vastly amused by the antics of the American British in their constitutions and society. For the most part the colonies enjoyed a happy neglect by the home government, and when they did attract attention no outsider was any better informed than the insiders of the momentous processes which, in the most embryonic form, were gathering into organic nucleus and ganglion beneath the brewing surface of politics and society.

Much of what England gave in the way of institutions she discarded from use at home as un-

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suited for use, in America these very conceptions in politics and society took root in colonial soil, being cherished as a gift from home and suitable for colonial purposes. These were the weapons which, when they conceived themselves oppressed, the Americans turned against the English, and party organization was one among them. It bore much the same relation to that of the home party, as has been remarked, which executive, legislative, and judiciary in America bore to the like powers in England. But for our purposes it requires somewhat closer and more extensive examination.

IV

HOME RULE

Survival of British institutions — Caucus — Representative, resident of district — Voting by proxy — Paper ballot — Committees of Correspondence — Party organization — Public opinion — Character of representation — Relation of Colony to Metropolis — The issue between parties — Revolution a partisan conflict — Home Rule and popular liberties — Loyalty to institutions — Disloyalty to the King as a person, to Parliament as despots.

It is very important to remember that many, if not all, Americanisms in speech, society, institutions, and politics are Britishisms abandoned in England but kept and developed in America. Two typical devices in American politics are the caucus and the limitation of choice in representation to those domiciled in the district represented. Both are British. Long before the American Revolution the caucus was a well-established institution in New England, whither it had been brought from old England. The meetings of voters before election to fix candidates and make their action efficient at the polls were regular and important. Though generally attended, certainly by a majority of those holding the suffrage, the influence of an inner junta of leaders was generally paramount. In the south and center colonies or States it was only this smaller body which met, informally enough, but just as efficiently and regularly.

Every one familiar with the history of the English Parliament knows that the King's writ could only

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run to a burgess in the borough sending one of its members to act for it in the great council. A statute of Parliament—never repealed, but long since fallen into desuetude—requires that only resident burgesses should be chosen to sit at Westminster. In America conditions required that each locality, town, district, or community, however named, should have its local interests carefully considered in the provincial assembly, and so an ancient English practice became a modern American institution.

A third political device in the colonies was that of voting by proxy—that is, of sending a vote written or printed on a piece of paper to be used by those present instead of an absentee's living voice. This use of a ballot was discouraged and abolished in Virginia, but organized into a system by New England. Two colonies, New Jersey and North Carolina, regularly used the ballot in some form before the Revolution, seven others with frequency. Of course, the party ticket as we know it, the majority caucus, the platform: all such election machinery has a very recent origin. But even the primitive ballot of our early history required preparation by a committee, and some money had to be raised for election expenses.

The fourth political device which became distinctively American was the formation within the provincial assemblies of rebel or patriotic committees that regularly consulted by correspondence with other similar bodies. These committees of correspondence or of safety were centers of influence, and, after the English manner, if the assembly could not be legally convened through the governor representing the sovereign, the men who would have composed it were ready to organize and sit in an extra-legal

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convention made up of themselves. Conscious of having been actually elected to the assembly, they felt that they represented the people when sitting in the convention. England at every crisis made a beginning of party organization in mass-meetings, by which reform associations were formed, statements of principle were issued, and committees of correspondence were organized. Its children over the sea were prompt to take notice and follow its example. The embryo of party organization therefore was a British device and custom. Our State committees of each party are lineal descendants of the committees of correspondence.

Finally, it must be remembered in considering the beginnings of party organization that in all the colonies there were but thirty-seven newspapers before 1776, that there were no real highways, that transportation of goods and persons was tedious and expensive, that consequently there was no swift and sure means of spreading news, that public opinion was necessarily slow in forming and often was based on serious misconception. This fact made the representative function very important. Long absence presupposed high purpose, some wealth, and the trust of those who remained at home. The representative was freed from any criticism or control by his constituents; he formed his opinion by debate and deliberation with his fellow-representatives, he regarded the general as well as the local interest, he returned home to give an account of his stewardship and persuade his electors that he had done well. This was true representation, the idea of the delegate was absent, and representative government had almost no quality of democracy: if anything it was an aristocracy. The local gov-

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ernment might be never so democratic; that of the colony and State was not.

The circumstances which on occasion put all this rude machinery in motion were connected partly with the defense of the colonies against the French or Spanish and the Indians; partly with questions of taxation. Common danger produced common action in military affairs among groups of colonies at first, finally among all of them during that portion of the Seven Years' War fought in America. The concept of the colony as a source of wealth to the metropolis so dominated England that in the eighteenth century her government never questioned its absolute control, its right to lay taxes when, where, and how it pleased. The only open question was that of expediency and necessity.

The matter of taxing the colonies was first broached in 1739; but the expense of the Seven Years' War made it at the close of that struggle a vital concern for the first time; and the Stamp Act of 1765 was at Westminster a normal procedure. The rebellion of the colonial spirit simply stunned the British Tories; but the Whigs, notorious or renowned—according as we ourselves feel—for their shrewd opportunism, gained power long enough to repeal it. Thereafter a definite issue was joined between parties. The American Whigs shifted the doctrine of their complaint as circumstances required, being utterly illogical and opportunist, and finally ending in the glitter of Rousseauism, which was naturally foreign to their genius. In every shift and turn, however, they enjoyed the moral support of British Whigs. No one saw that the real issue was home rule. The struggle was initially partisan and on both sides of the Atlantic gave the great impulse to modern party government.

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It was the envenomed bitterness of this strife which made the name and the idea of party so hateful to Americans at the close of the war of the Revolution. The home rule which was really wanted was thoroughly British: to wit, kingship in some form controlled by separate powers interacting to check excess. Feudalism meant instability and chaos; royalty meant order and stability. To the medieval dogma of unity in Church and State was opposed that of nationality and dynastic rule. Popular liberties endangered by absolutism could be saved by checks on royalty. Montesquieu saw what did not exist—the estates of a realm interacting to check excess in each other; Blackstone and Burke made the doctrine of the division of powers, of checks and balances, the political gospel of English-speaking peoples. Puritan theocracy in conflict with royal absolutism took refuge in popular liberties as a war-cry.

The spirit of the Constitution—unwritten British or written American—is a basic contract between ruler and ruled; when government trespasses on the subject's rights the contract is annulled. To modern thought this seems antiquated, if not absurd, but not one of the pretexts put forward by rebellious colonists could stand except as we see the British government in perspective violating what had become a political instinct: that no department of government, not Parliament nor even the venerated kingship, could assume complete control. Not one, but all American liberties were jeopardized in the control which Parliament arrogated in legislating for the colonies. It was not that they had laid an intolerable burden of taxation nor that there was no representation; it was the violation of home rule, by which alone American liberties could be safeguarded.

V

BASIS OF THE CONSTITUTION

Apparent anomalies in the struggle for independence—The Confederation—Fourteen years of separation—The gloomy conditions resulting therefrom—Clashes of commercial interest—Effort at arbitration—The Nationalists' address to the States—The convention and differences of opinion—Appearance of party lines—Parties and the compromises of the Constitution—Devices to check democratic license—The Constitution eclectic and evolutionary.

THIS central fact of allegiance to a principle and to institutions explains all the queer anomalies of the American Revolution. The Whigs both sides of the ocean were an ancient party; Toryism in either the British or the American form identified the King and the monarchy, was justly styled "new," having little in common with the old, and was a parvenu. The colonists took up arms against the men on the throne and in Parliament, who were usurpers and tyrants, and hence could honestly express their loyalty both in beginning and continuing the war. The leaders and their followers throughout the preliminaries and early duration of the conflict were loyal, as they understood the word, until the man on the throne became a tyrant and no longer wore the British crown, having hired foreign troops to coerce British subjects. There could be only one retort by the colonist Whigs: independence and the alliance with France, two things equally abhorrent to thou-

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sands of Americans, difficult to assert and negotiate even as a stern necessity. The uprising, the conflict, and the victory were a triumph for the Whig cause in England, the end of the Whig party in America.

During the fourteen years subsequent to the Revolution, throughout the duration of the Confederation, there was literally no national politics, because there was no constitution for the loose federal state called the United States. Their union was not organic, merely diplomatic; and in consequence existing nations elsewhere despised the congress which represented what nationality there was: how could they deal with a government which was one merely in name and not in fact? With no authority abroad, it had still less at home, and particularism flourished, in the States as never in the colonies, finally developing the absurd concept of State sovereignty. The politics and parties of America were neither British nor American, but State; in them the effort was exerted to found government on free principles by dividing, balancing, and developing its powers, as Jefferson wrote in 1781 regarding Virginia, among several bodies of magistracy checking and restraining one another. The Revolution was a movement toward union in united effort. Government and administration were throughout its duration wretched, but French money and troops compelled a semblance of nationality; the Confederation, on the contrary, was a reaction to separatism; the former leaders lost all influence.

Disorder, poverty, insignificance characterized the federal government. The members of Congress were not leaders, they represented neither persons nor principles; there was general uncertainty and exasperation, no ray of light penetrated the gloom, there

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was actually a renaissance of loyalty to Great Britain. The "gentlemen of America," as they were sneeringly called, were nevertheless still alive and vigilant. Among themselves, moreover, they were active and prepared to take advantage of the first emergency which might arise. It came in 1784, when Virginia and Maryland fell out regarding tolls and duties on the Chesapeake; there were similar clashes between New York and New Jersey over New York Bay; between New Jersey and Pennsylvania over Delaware Bay. Compromise and reciprocity could alone prevent disruption.

Maryland and Virginia, regarding themselves as independent sovereignties, appointed commissioners to meet at Alexandria; Washington invited them to Mount Vernon, and there was inaugurated the process of reintegration. Discussion began, and good sense gradually prevailed over demagoguery. It became clear that on the Atlantic seaboard there must be uniformity of commercial rules, and finally there met at Annapolis on September 11, 1786, a body of twelve commissioners representing five States. This body deliberated and issued an address setting forth the effect of uniformity in commercial procedure on the general sphere of federal government, and recommended a general convention to discuss every aspect of the important movement already inaugurated. The French Minister, Otto, wrote home that the leading spirits desired the failure of this first convention, and that, taking advantage of its tardiness in assembling and its behavior when at last assembled, they had seized the chance of introducing a broader, more vital question.

In this address mention is made of the fact that the United States as such could borrow no money;

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it might have been added that public honesty had been so debauched by the shifts of the war that the separate States were in no better plight. The new convention should deliberate, the address suggested, not merely on commercial union, but upon all the common concerns of the States and "the means of rendering the federal government adequate to the exigencies of the union." This last was, of course, the main purpose for calling the convention; since it "rides" on the pretext of commercial union, though itself the more important, there may be noted here the first instance of the "rider," the common ruse to secure favorable legislation for a distasteful measure by linking its fortune with a popular or necessary one. The strategy of the old leaders, the Nationalists, succeeded.

Volumes have been written about the convention which met at Philadelphia in May, 1787, to "revise the Articles of Confederation," and at once, with entire disregard of its mandate, began to make an entirely new and national constitution. What interests us is that in and around it there appeared the nebulous shapes of the two great American parties which in one form or another have been active ever since: one representing the persistent tendency toward union and centralization, the other the equally vigorous purpose of conserving the highest possible measure of local self-government. Both have had strange fortunes and buffeted savage storms, but, though incrustated with thick envelopes of other policies, both retain to this hour much of the quality with which they started, and are better recognizable by it than by any other feature.

Throughout the convention the younger men of forty and thereabout did the work, while the elder

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deliberated and moderated. All were appalled and timid in the face of their task; all wondered how the States could be won for real organic union; all dreaded the terrible democratic license which had been exhibited in New England and threatened elsewhere; all foresaw the crucial and basic compromises which must be effected for even partial success. There were, therefore, party lines sketched in, between large and small State men, between landed proprietors and great merchants, between the varying social strata. Although this demarcation was rather anticipatory and vicarious, all the sitting members belonged to the ruling class and were determined to curb the mass.

Then again there was party division concerning the famous compromises, all familiar to students: the invention of dual citizenship, State and federal; the compromise on representation, three-fifths of the slaves counting as so many freemen but having no share in elections; the so-called Connecticut settlement, whereby the States have equal representation in the Upper House, with representation proportionate to population in the Lower: the most far-reaching device of all, whereby the executive is chosen by the electoral college and made the creator of a judiciary charged to be the "bulwark of a limited constitution against legislative encroachment." There could not fail to be, as there were, two opinions about every one of these matters.

About checking democracy there were not two opinions; on the contrary, there was complete unanimity. The convention rejected the much-distrusted plan of a ministry representing the majority in the Lower House, and for the same reason forbade the choice of office-holders to the Congress.

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It also rejected the notion of a privy council, but made the Senate stronger than the House of Lords by giving it a share with the executive in treaty-making and appointments. The Senate was expected to be powerful by its opulent, settled, deliberative, aristocratic character. But, again to check democracy, Congress as a whole received only certain specified, enumerated powers, and those only; the executive was vested with all executive power. Hence each of the three divisions—legislative, executive (prerogative), and judiciary—is a fountain of law.

Finally the form of government guaranteed by the federal to the State governments was republican, not democratic. We have already seen how eclectic the whole document is; how every device was picked and culled from old custom or then existing State constitutions; how, as far as concerns the Whig revolution in America, begun in 1775, ended in 1783, the new Constitution was presumed to fix its principles and begin a new epoch. It is the legitimate successor of Magna Charta, of the Bill of Rights of 1689, of the Act of Settlement of 1783, a statement of what has been achieved by social agitation in preserving the old and fixing the new. The system inaugurated is frightfully complex; but, as Bryce remarks, it is the complexity of a great ocean steamer and works superbly with proper care.

VI

STRICT AND LOOSE CONSTRUCTION

Strict and loose construction—Public opinion and presidency—The governmental function of presidency—Hamilton as premier—Corruption in politics—Non-partisan government—Latent differences of opinion—The disgrace of partisanship—Patriotism and self-interest—Jefferson and Hamilton.

THE loathing of party exhibited by the American state-founders proves, therefore, to be due to fear of hostile influences. But no sooner was the paper ready for submission to the States for their adoption or rejection than a wide divergence of opinion among the founders was apparent, and this spread swiftly throughout the gentry to whom they belonged. It had been foreseen that a most important check, among many legal ones, would be an extra-legal one—*viz.*, the counterbalance of ambitions among the cultivated and intelligent in the government, sent as representatives of this same sort, the persons who alone possessed the suffrage. Such conflict did arise at once concerning the exact meaning of the Constitution, the tendencies it contained, and the uses to which it might be put by widely varying sectional interests. The strict construction of its provisions, worked by the “gentleman” class, would be to the liking of some; a fair but loose construction of such a document in a government run by the upper middle class would suit others. Its adoption was largely due to the hopes and trust of both sorts of men.

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There was a considerable development of party feeling within the ruling class.

When at last the Constitution was adopted by the requisite number of States and the new system of government had to be put in motion, there was really no model to follow. The remarkable powers of the President seemed to require that he should be treated with something of monarchical etiquette, and there were efforts in this direction. He himself made a trial of the Senate as a privy council. There had been little or no thought in the Constitutional Convention of any influence or control to be exerted by public opinion, organized or unorganized. But it made itself instantaneously felt; for Washington, sensitive to the jealousy with which he was surrounded, could permit no monarchical form of address, and found the annoyance of consulting the Senate so intolerable by reason of their repellent manners that he quickly adopted the private arrangement of treaties and appointments, submitting them to the Senate for action without the presence either of himself or of members from his Cabinet.

The monarchical republic which some of the founders had foreseen was therefore still-born. The President was a plain gentleman surrounded by no etiquette, as easily approachable as was consistent with the forms of ordinary politeness and the limitations of his time and strength. His chief governmental function he exercised by messages sent to the legislative department. Accordingly the wheels really began to move, and for a short time they continued to turn, because directed by intelligence, without much impulse from without. It was only as social changes took place and their energies were operative that the irresistible force of public opinion required

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the adjustment of conditions. The Cabinet officers, unknown to the Constitution, became more and more important, as relations between the various branches of government required; the text of the Constitution—only a paper after all, as Fisher Ames had remarked—was found elastic; the suffrage was less and less restricted, and at last the old aristocracy of birth, land, and wealth found itself surrendering to a new one, that of power, expressed, not in the old terms, but in terms of capacity to control public opinion, secure and keep votes, manage patronage, and generally to run what was hourly a more and more complex system of government. This new element was naturally antagonistic to the old. The two great parties were inchoate, but really existent.

This peaceable revolution was made possible by the intentional flexibility of the Constitution and by the institutional temper of the people. For a time the commanding figure under Washington was Hamilton; his personality was fortified by the vital nature of his task. There was a general conviction that, since the President might call for written reports from the heads of the executive departments, Congress could only communicate with them through him. Hamilton brushed this aside and by direct dealings with Congress made himself temporarily a premier. "Public business must in some way or other go forward" was his motto. Of two evils he chose the least, took men as he found them, made bargains, "log-rolled" even with Jefferson. By this means, often stigmatized as corrupt, he put through the amazing and superb financial measures which created the splendid edifice, the so-far unshaken and sufficient structure of the Treasury Department. The Congress and the executive depart-

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ments were thus brought into direct connection. When he lost his prestige as a prime minister the void was felt, and the standing committees, now an integral part of the congressional system of government, were substituted. The British idea was eclipsed: the Cabinet is a privy council, not a ministry; the Senate checks the executive power within the limits assigned, and is otherwise an Upper House pure and simple: the House committees in conjunction with the executive departments really control legislation, though the President's recommendations are very weighty because he controls patronage.

It must be iterated and reiterated that the eighteenth century detested party and party spirit. Witness Bolingbroke, Chatham, Shelburne, and Washington: there were only two voices to the contrary, Rockingham and his man Edmund Burke. The refusal of Chatham to accept existing conditions and to make party responsible for its acts was the cause of British defeat in the struggle with the Continent and with her own colonies. Corruption was rife at Westminster; things were little, if any, better in Philadelphia. The Continental Congress handled its patronage by bargain and intrigue; its sessions were private. It lived in the main by evasion. Procrastination prevented the transaction of public business, fear of unpopularity made it shirk taxation, and by its emissions of paper money it destroyed public credit. So low did it sink with its cabals and its factions, its junketings and self-indulgence, that it is unlikely that the struggle would have been victorious except for the creation in pure despair of real departments—finance, war, navy, and foreign affairs.

There was no chance for party in it, as there was

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none in the Confederation, because there was no trust or confidence, no element of permanence anywhere.

Likewise, during the process of making a constitution and putting in motion the machinery of government there could only be, as there were, two tendencies: one to erect, assemble, impel, and one to criticize, for all were by this time Nationalists. The American Whigs had annihilated the Tories; there was but one party in the old sense—the victorious one. To a ruling class had been intrusted the creation of a government for themselves and the masses. They were one and all Federalists in the narrow sense, and until government was well established and running the process of adapting and modifying, which began immediately, was non-partisan.

The enforced circulation of paper money is the confiscation of private property; throughout the Revolution and the Confederation producers—artisans, farmers, wage-earners—were simply robbed wholesale by the compulsion put upon them to accept worthless rags as money; they were opponents of Congress as a matter of course. The unconcealed use of place-bribery threw all who were or felt themselves neglected into opposition; mere conservatism—that is, distaste for congressional interference—like or dislike for the administration, military or civilian leanings, Nationalist or anti-Nationalist opinion—all these contained the germs of party feeling. Then when the vital question of adopting or rejecting the Constitution was thrown into the forum every conviction was awakened, every energy aroused, every passion electrified. Then, if conditions had permitted, would have been drawn party lines.

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But partisanship was still a hateful word, a despicable quality in a patriot. Until the Constitution was adopted—further, until the government it created was set in operation—there could be no real party. Groups there were, but they were all united for the single purpose of establishing the government. Patrick Henry, Richard Henry Lee, Luther Martin, Samuel Chase, had opposed the Constitution; all became staunch Federalists. Madison, Dickinson, and their friends no sooner gained their cherished end in its adoption than they took a firm stand for its strict construction and a minimum of federal control.

The ruling class in America united to establish a government, as did the Whigs and Tories of England in 1688; but their inherent principles differed in themselves so widely that the pre-Constitution groupings virtually disappeared, except as the respective temperaments were of course permanent. Those who had suffered from weakness wanted strength; from anarchy, order; from robber taxation through paper currency, an honest finance; from State evasions, a powerful federal control; on this side were arrayed the mercantile, manufacturing, military interests. But in all these respects America was not distinguished, while in agriculture her immediate possibilities were limitless.

Jefferson wanted no workshops, no great cities, no congested populations and the consequent corruption of morals. Private and public virtue were ingrained with outdoor life and labor. He feared the feeble Spanish populations to the south would not survive until there would be enough sturdy Anglo-Saxon agriculturists to flow over and occupy their lands. Government was a necessary evil,

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but with virtuous, agricultural peoples its burden should be very light. Hamilton stood for at least sufficient government to secure decency, order, honesty, and general security in contracts, in all finance, small or large. Jefferson would leave Europe to her manufactures; Hamilton would have America suffice to herself.

VII

PUBLIC OPINION

Popular sovereignty—In New England: variable and general—In the Middle States: stable and general—In the Southern States: stable and aristocratic—The general public opinion—The vehicles of discussion—Indirect pressure on Convention: compromises—Open questions—Discontent with the Constitution—Elements in the parties.

THUS far we have confined our account, as is correct, to the opinions and actions of the ruling class. Everywhere among men there is a ruling class, but it is very differently constituted at different times, in different places. That in the colonies seems to have strongly resembled the corresponding class in Great Britain; there were in it, as already said, great landed proprietors and great merchants, men of wealth, birth, and education. But there was something behind the American ruling class which was far stronger than any of these elements in human life, a force which is generally called popular sovereignty.

This force was at the beginning strongest in the New England States, because the settlers of those colonies were refugees from a polity, ecclesiastical and political, which they had thought tyrannical. They had, therefore, established in their new homes strong local governments, both church and secular; and, what was even more important, they had se-

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cured charters giving to them powers of government far transcending those of the other colonies. Of these powers they were very jealous. Hence the popular will as expressed in the town-meetings controlled not only local sentiment, but also the county and the colony, by such rude devices, of course, as conditions made possible, but it controlled them each and all. It controlled the questions of degree in personal liberty, of trial by jury, of the laying of taxes by popular consent. Public office was a public trust, and officials were directly responsible to the people.

The middle colonies were, of course, in close and constant touch with those of New England; but they had a different social system. With negligible exceptions the former were Puritan Congregationalists in religion, fairly equal in wealth and social station; in the latter there were many Anglicans, aristocratic in church polity and in temper, while the people in considerable majority were Scotch or Puritan Presbyterians; Quakers, or Huguenots; holding a position midway between the aristocracy of Episcopacy and the pure democracy of independency. To the northeast the representative men, the ruling class, changed according to the swift movements of opinion; in the central colonies they were more permanent, holding the public confidence in a measure by the prescription of station, but finally, as elsewhere, according to their merit and power in representing public opinion. New England and Virginia began the struggle for independence; it was the Middle States which exhibited that dogged persistency of conviction which supports humiliation and snatches victory from defeat. Their heterogeneous population of Dutch, Germans, Scotch,

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Irish, Swedes, English, Huguenots, did not quickly attain to the consciousness of political life, for because of their temperament public opinion was slow in forming; but, having realized the theory, it held out to realize the fact. Hence its dealings with its leaders were careful, and their action consequently conservative; but a position once taken was certain to be maintained.

In the southern colonies the situation was still different. Their white population contained every one of the elements found in the northern and middle colonies, but the proportions varied widely in different districts. In addition, there was an ever-growing number of African slaves. The various white elements, too, were more hostile one to the other because their origin and interests were so diverse; the lowland planters of tobacco, rice, or cotton, the upland or Piedmont farmers, some with large estates and some with very small, and the mountaineer pioneers and herdsmen employed different kinds of labor, lived under different social conditions, and were differently compounded in stock and religion; the differences in their wealth were enormous. Hence there was the outward semblance of an aristocratic society; social importance seemed to control and lead public opinion; the planter grandee was most in evidence; the model of English country life was consciously cultivated. But behind these families there was a social hierarchy, slaves, white bondmen, small farmers, adventurous fortune-seekers in the mountains: taken together they were very numerous, but, being ignorant and unorganized, they were politically sullen and inactive unless roused by some infringement of their rights, as they designated their customs and mode of life.

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But if, as we have indicated, there was a certain public opinion in each State, and a larger, broader one in each of the three regions, [that which was common to all the thirteen members of the union was shapeless and vague. It may almost be said that they had in common only the general conviction, slowly molded by common considerations, that each colony had the right to complete self-government under the Crown. This conviction, rudely disturbed by the attempt of Parliament to legislate for them^f all, was only strengthened by its enforced withdrawal of measures, reiterate the principle as it did and might; it was finally established in the successful struggle for independence, even though the independence gained was political and not economical. Before the war each colony had considered every other as in some measure at least a foreign country; under the pressure of war this conception was entirely eclipsed by the necessity of union; after the war the old separatist principle reasserted itself vigorously. The Confederation was the result. Its doleful failure precipitated united action in peace as well as in war, and the public opinion of the States made itself felt in the demand for union, not as a state federation, but as a federal state. There was a general public opinion on this point at least.

There were thirty-seven newspapers published in America at the outbreak of the Revolution in 1775, a large number for the population of under three million. But each had only a small circulation confined to a small district, and such a press was utterly inadequate to influence public opinion over so great a territory. At the close of the war the number was substantially increased. Pamphleteering was com-

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mon before, during, and after. The periodical press steadily gained in influence. Roads and highways were still very bad and transportation slow, but there was a national intercourse by fairly regular mails and passenger travel. Just in proportion to the better transportation, separatist violence was allayed, and federalism became the national opinion. The only divergences were in matters of degree. Hence the new Constitution of the Union was quite as remarkable for its reticence as for its declarations, and perhaps more remarkable for its compromises than for all else.

Its historical features, which form its bulk, have all been enumerated. It was the sheer force of public opinion which, working through members of the convention, compelled its great and vital compromises as distinguished from the minor. These major compromises were two in number. The Virginia plan introduced by Randolph was the large state plan. Its essence was representation in Congress in proportion to population, and that Congress should enforce the fulfilment of obligations by the States. The New Jersey plan proposed by Paterson gave the States as such equal representation in Congress as under the Confederation, but it gave the legislature thus constituted power to regulate commerce and raise an income by laying internal taxes. The latter plan did not commend itself, nor did the former. After debate amounting nearly to disruption, it was finally settled that there should be two Houses of Congress, with equal representation for the States in the Upper and representation according to population in the Lower and most popular. To this first great compromise was added the second; that in reckoning population slaves should be counted as

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three-fifths of the whites—the slave-trade was to cease after 1808. There were, as already enumerated, other minor compromises to which reference will be made where they affect parties. The whole document is like other monuments of statesmanship, a compromise, choosing not the absolute best, but ever the least of two evils. For example, the more perfect union thus formed was not a perfect union; how perfect has been a source of bitter disagreement.

The creation of a federal judiciary was the greatest novelty of the Constitution, but without such a body to draw the lines between the federal and State authority the whole system would have been a farce. To what extent the new government engrossed the theoretical sovereignty of each State had yet to be determined. What are the powers granted to Congress, what their extent, and what their interpretation? are questions about which the most divergent views have been held.

Madison said the *foundation* of the Constitution was federal; in the *sources of power* partly federal, partly national; in their *operation* national, not federal; in the method of *amendment* partly national, partly federal. The conclusion satisfied nobody; only thirty-nine out of fifty-five delegates were willing to sign the paper. It took two years, during which torrents of oratory roared and rivers of ink were poured forth, before all the States, and even then, mostly by slender majorities, would adopt it. Any public measure, it has been said, which does not have to turn both cheeks to be slapped is unsound. It was thus with the American Constitution. Men, principles, social rank, economic interest, localities, and races—the fate of all was

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bound up in it, and about it the first real parties were formed.¹

¹The Convention met on May 5, 1787, and adjourned on September 17th. Before the new year Delaware, Pennsylvania, and New Jersey had ratified the Constitution; Georgia, Connecticut, Massachusetts, Maryland, South Carolina, and New Hampshire, July 2, 1788; Virginia and New York followed before August 1, 1788; North Carolina and Rhode Island in 1790.

VIII

UNPARTISAN FOUNDERS OF NATION

1789-1793

Adoption of Constitution non-partisan—The old and the new—Class and mass—The press in evolution—Its use in England and America—Constitution of federal government—Congress still non-partisan—Differences of opinion emerge—Influence of French Revolution—Divergences eclipsed by necessity—Sympathy as a line of division.

It is not correct, however, to speak of parties in regard to the adoption of the Constitution. They may have been incipient, but they were not formed—not until some years later, when the wheels of government were moving. The convictions of men were very mixed, and many voted with what does not deserve that name—in a sort of dazed appeal to blind luck. Some despaired of anything better and grudgingly accepted this; some revered the great men who urged the adoption and followed their lead; some were favorable with the concealed expectation, amounting almost to certainty, that in time they could amend the original out of existence. Loyalty to persons, like loyalty to habit, plays an enormous rôle in popular institutions; nothing is so hard to move in rejecting or overthrowing accomplished things as a great mass of voters. Passion alone can reverse policies once formed, and to passion all agitators appeal. The Constitution was made and was to be put on trial; but that was all; if the

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government did not fit it could and certainly would be altered, or perhaps rejected.

Extreme federalists had desired a monarchy; extreme radicals a confederation—the Confederation with improvements; the moderates wanted only fair play for the plan of the Convention, finally adopted. Both extremes claimed and believed themselves to be conservatives; conservators of Anglo-Saxon habits on one side, on the other conservators of what the Revolution had gained. Both were so far correct, but the gains of the struggle were not entirely old habits; some were novelties, especially the republican form of government and the democratic state of mind. Both extremists and moderates regarded the Union under the Constitution as an experiment; both believed the result would maintain their respective positions. What we have styled the ruling class was therefore divided; the stratum of society from which they received their mandate was not. The upper crust were working politicians of independent means, or made independent by place-holding; the lower were citizens with a living to make and desiring the stability of government essential to their task; the lowest did not as yet count for much, though they naturally looked to the very top for guidance.

Another novelty was the sudden interest in the press developed by the Americans. The press itself had undergone a revolutionary transformation. At first it was almost entirely devoted to useful announcements; then advertisements as a business enterprise became a feature; to commend the purchase of such a sheet by customers some little news was printed, then more and more, until news-gathering became a chief concern; finally there was added

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some political comment, and this feature so gained in importance that every word, privileged or otherwise, every act, public or private, of public servants had to be recorded and commented upon. Thus came into existence the modern American newspaper, replacing the town crier, the poster, the pamphlet, and trenching on the Senate house, the forum, the pulpit, and the counting-house. During the colonial period the press was subject to rigid censorship. When emancipated from control it was itself uncertain, being at times the slave and again the master of public opinion. It was not until the business of the newspaper grew to enormous magnitude that, like all other forms of accumulated wealth, it became timid. But the earliest epoch under emancipation was one of utter license, and in America this was coincident with the French Revolution.

Since 1688 the course of politics in Great Britain has been the alternate control of government by Whigs and Tories under a divided ruling class; that is, the story of their successes in bidding for votes, with the steady extension of the suffrage. Part of the practice by both parties was the subsidizing of journalists and pamphleteers to arouse the passions of the multitude. The Whigs encouraged John Wilkes and gave him a pension of £1,000 a year for life. Jefferson and the Republicans in America greatly aided virulent libelers in a similar way; Callender with money, Freneau with place. In the propaganda against the establishment of a purely Anglo-Saxon system the influence of French radicalism was enormous. The course of the American Revolution had been the study of French reformers; they carried its ideas to extremes which, though logically specious, were practically nauseous. As

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time went on there was thus added a new element to American agitation, and American men were reckoned and stigmatized as French radicals or British conservatives. These foreign expletives had no real sense, but they injected an element of bitterness into the polemic which made antagonism so complete that the evolution of parties followed the resultant of opposing forces along a median line.

In 1789 elections under the new system were complete. Presidential electors, sixty-nine in number, working, as had been expected, with no external pressure, each wrote two names on a ballot; all put Washington first, thirty-four put John Adams second, thirty-five seconds were scattering. The former took the oath of office in New York. Senate and House met, the former under the presidency of Adams, the Vice-President of the country, the other under Muhlenberg, a speaker elected by itself. This occurred with no sign of party division, though Washington took care that both shades of opinion were represented in his Cabinet. So overwhelmingly powerful was British tradition and habit that with substantial unanimity the Congress at the very outset proposed a Bill of Rights in the form of ten amendments to the Constitution. They were speedily adopted by the requisite number of States and declared in force on December 15, 1791. This enumeration of matters, which are presupposed and not subject to legislation, allayed the conscientious scruples of many anti-Federalists, were quickly adopted by the States, became a portion of the Constitution, and went far to strengthen the Union already formed. Some few radicals opposed, since they saw their scheme to undermine the Constitution so far thwarted. Yet the ten amendments be-

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came, and are, a portion of the original document, being so manifestly corollary to it.

The Congress furthermore exhibited itself as non-partisan in passing three measures: (1) a tariff bill which in the very beginning set forth the then purely American doctrine of tariffs for the encouragement and protection of manufactures, (2) the assumption alike of the foreign debt of the Confederation, and (3) of its domestic debt. In these measures there seemed no question of general, federal principle. But regarding two others there appeared a vital matter—*viz.*, the power of the federal government: (1) Could the Union assume the State debts, and (2) could it charter a national bank? The fate of the first, indeed of both, shows how very vague was opinion concerning federal powers. The measure was at first adopted by a vote of 31-26; but when North Carolina entered the Union in November, 1789,¹ her seven Congressmen voted for reconsideration, and it was lost, 31-33. But the resourceful Hamilton, to save the public honesty and inaugurate the policy which has kept our federal credit rock-fast ever since, entered into a bargain whereby two of the Southern members changed sides in return for an engagement that the federal Capitol should eventually be on the Potomac River. The Bank Charter, after violent discussion, passed both houses, and Washington, ever wary, signed it; but not until he had taken a written opinion from each member of his Cabinet.

In the Second Congress not only were all the thirteen original States represented, but two new ones. Rhode Island completed the thirteen in May, 1790; Vermont secured secession from New York and was admitted as a new State on March 4, 1791;

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Kentucky, a portion of Virginia, became a separate commonwealth in the Union on June 1, 1792. In the Lower House there were fewer Federalists, but there was no party division, and both House and Senate supported the administration. They increased the army, raised the tariff dues, and passed an apportionment bill fixing the number of representatives at one hundred and five without dissent. The federal idea was distinctly in the ascendant, being held by Executive, Senate, House, Judiciary, and the corresponding officials of most States. There was no longer any division of opinion about the Union; all the people, all their leaders, and all office-holders heartily supported the new federal system. But there were many, a large number, who varied widely, both from the men in power and from each other, in temperament and attitude of mind regarding the questions which had arisen under the general head of governmental powers, delegated or reserved. It was at the close of the first session of the Second Congress that ideas generally so far indefinite began to secure shape and definition.

Almost without exception Americans sympathized with the French Revolution in its early stage of reform, believing that, as in their own they had applied the principles underlying the English Revolution of 1688, so the French were now applying those which they themselves had just established. As the French grew more radical, conservative Americans drew back, but radical Americans, in speech, dress, and manners, exhibited their approval. Jefferson was one of them, and suggested the style of Democratic-Republican for those who, having accepted the Union, were nevertheless so far in agreement that they would minimize its powers and maximize the

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sphere of State rights. Time has done justice to the hybrid name, for in general parlance the democratic tendency of these dissenters has been emphasized by the use of its first portion, the second has been by general consent assigned to their opponents. When the two names of Federalist and Democratic-Republican were accepted, only the second half of the latter—*viz.*, Republican—was ordinarily employed. The division having been acknowledged in Congress, Jefferson and Hamilton exhibited it in the Cabinet. Yet, as the time for a second presidential election approached, it was the sentiment of both groups that Washington should succeed himself; for the vice-presidency the Federalists supported John Adams; the opposition, George Clinton, of New York. Washington and Adams were chosen, the former by the total electoral vote, 132, the latter by a majority of eleven.

In the second session of the Second Congress there was but little party division. Both sides agreed on the vital question of raising and expending revenue. In 1791 an Excise Law to provide funds for Hamilton's measures, assuming the debts both of the States and of the Confederacy, had been passed. Those who were now Democratic-Republicans had opposed it; but it could not be repealed, unpopular and hateful as it had proved to be. All they could do was to suggest a vote of censure on the Secretary of the Treasury for his mismanagement and for his contemptuous tone toward Congress. This was a tactical blunder, for so conspicuous was the Treasury in its superb achievements that any attack on it was absurd and was so treated.

Here, then, were the outlines of two parties divided by a question of domestic policy, though one sym-

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pathized with the levelers of France and so declared, while the other did not. This was the party situation when on March 4, 1793, Washington and Adams were inaugurated a second time. The international complications of the Union were, however, about to assume portentous dimensions, and this fact was crucial to the next stage of party development.

IX

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1793-1797

British attitude toward the United States—Grievances against Great Britain—Grievances against France; Genet—Party alignment on these questions—Jay's Treaty; Washington's unpopularity—Inchoate policies in Congress—Washington's Farewell Address—Results of the election—Sectional division—Party attitude better defined.

THE first year of the American War was regarded by the British as a civil war, and the notion of a rebellious child became so deep-seated that even yet the attitude of Great Britain toward America is affected by a similar consideration. At the close of that first year the revolted colonies could possibly have dictated their own terms as colonies, becoming then what Canada and Australia now are, daughters in their father's house, mistress in their own. But the French alliance gave the character of foreign war to the struggle and united all Britons in bitterness toward America. The Whigs gained power long enough to make a peace, but it was a very imperfect peace, securing for the Confederation political independence without mercantile or economic liberty. This was understood by keen minds on both sides of the sea. Neither the American Confederation nor the Union provided funds to pay the debts due British subjects under the treaty of 1783. Great Britain in retaliation refused alike to evacuate her

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military posts on the frontier and to pay for slaves carried off by her armies.

There was, therefore, a heightened and defiant acerbity on both sides. Americans believed that British agents instigated the attacks of savages on the settlements of the Western border to prevent expansion, that it was British influence which let loose the Algerine pirates to prey on American commerce by composing the differences between Portugal and Algiers; and these worst suspicions seemed confirmed as it grew more and more common for British men-of-war to overhaul American ships on the high seas and impress their able-bodied seamen on the pretext that they were British subjects. This was a grievance of the most serious nature; the cup of bitterness flowed over when, on June 8, 1793, orders were issued from Westminster to direct all American ships loaded with grain for France into British ports; on November 6, 1793, courts were organized in British fashion on British soil to try the cases of such ships, which were really prizes. American commerce was crippled almost to ruin, and Americans smarted sorely under British contempt.

But the case was not much better—indeed, rather worse—with France, the sentimental and traditional friend of America. Her aggressions took place on American soil while those of Great Britain at least occurred on the high seas. The French Republic was now in an advanced stage of radicalism, and was defiantly at bay before all Europe. It recked little of right or law when its very existence was at stake; desperate men were taking desperate measures in the name of France. Eschewing royal France, the men in power at Paris nevertheless considered her treaty with us made in 1778 as still in

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force, and so did the extreme wing of the Democratic-Republican party in America, the men who used Citizen and Citizeness in address, the men who formed Democratic Clubs in imitation of the Jacobins, who went to every extreme of absurdity in aping the style and license of Jacobinism. These were they who, in April, 1793, gave such a wild welcome to the notorious agent sent by the Convention that his head was utterly turned. Citizen Genet was no sooner landed at Charleston than he commissioned cruisers in the name of France, fitted them out in American harbors, set them to prey on British ships, and erected prize courts to try the several cases. He raised funds, enlisted men, became abusive when checked in his mad career, and then persisted in his policy as far as possible, accompanying it with derisive abuse of President and Cabinet. The French Consul in Boston rescued a libeled vessel from the United States marshal; there were formed in Georgia bodies of filibusters under the French flag to attack the Spanish colonies. The whole of America was in an uproar; but Genet's popularity increased rather than diminished, until finally Chief Justice Jay and Senator King of New York united in a statement that Genet had asserted his intention to appeal to the people over the heads of the government. To the amazement of the desperado, who was merely using a stock phrase of the Jacobins coined for European use, this ended his career, and he sank into insignificance, hurling the charge of liar at Jay and King as he was submerged.

These were the racking perplexities which beset a system still on trial — an excellent compromise worked by able, courageous men, but not yet hardened into efficient form. Washington and his Cabi-

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net regarded the treaty of 1778 with France as no longer binding, there being no real government in that country. He therefore issued a proclamation declaring the neutrality of the United States as between France and her enemies. This the Democratic-Republican members of government declared to be usurping the powers of Congress in annulling treaties and so determining peace or war; they began a process first of official, then of personal defamation, never since surpassed in our worst electoral campaigns. Upon these libelers was fixed the name of the French party. Between the retaliations of France and Great Britain our commerce was more and more a prey to the latter. Jefferson proposed measures of offense against both, and the prohibition of all importation from either was seriously considered. Since there was no serious importation from France, nor likely to be with British control of the seas, this was a Democratic-Republican measure. Party lines were further drawn on the question of a navy to maintain the neutrality officially declared. Here the Democratic-Republican group were utterly illogical, at least in appearance; they desired to exclude English wares, but to give the federal government a navy was the entire reversal of their theory. The first session of Congress ended in complete party confusion. The Federalists controlled the Senate; their opponents had a slight majority in the House.

Before the second session of the Third Congress began the administration took an unexpected and daring step, sending Jay from his chair as Chief Justice to London in the hope that so distinguished an envoy might secure terms with Great Britain which would make commerce possible—April 16,

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1794. The House passed a resolution prohibiting all trade with England, the Senate rejected it, and Jay sailed. Some concessions he did secure, but none regarding the great points at issue—impressment and the control of commerce by that and other annoyances—nor any regarding free trade with the West Indies. It seemed a sorry result. While furiously resented by one party, it was humbly accepted by the other as better than nothing, and was signed by Washington with that feeling. Again there was a whirlwind storm of abuse, more personal than ever; the Democratic-Republicans charged Washington with treason, with indifference to the sufferings of American prisoners in Barbary dungeons, with incapacity during the Revolution, and with embezzlement of public funds as President. So intemperate and envenomed were their attacks that the President declared he would prefer the grave to his office. Before the end of his administration the treaty had worked so well and brought such added prosperity that the traducers and their adherents were silenced.

Throughout this second administration the confusing demarcation of parties continued without securing any further definition, for the leaders felt the system of union was still on trial and did not dare to jeopardize it or go over a certain line. The Federalists kept control of the Senate by a diminishing majority; the Republicans, of the House by an increasing one, though they chose Dayton, a Federalist, as Speaker. In both Houses there were debated Jay's treaty and the objections to it; the question of indirect or direct taxation; the censure of Genet; the censure of Hamilton; the Whisky Insurrection against the excise law; the Eleventh Amendment providing that an individual could not sue a State

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as if it were a private corporation; the increase of tariff duties; the demand for the Jay Treaty papers, and the refusal of the Executive on the ground that only the Senate was part of the treaty-making power; the retort of the House that it only could furnish money to make treaties efficient; and other matters not important. From first to last the party lines were visible, and, on the whole, while the Federalists were strengthened by the recall of Genet, by the suppression of the Whisky Rebellion, and by the operation of Jay's treaty, yet the Republicans gained prestige on the questions of direct taxation, the Eleventh Amendment, and their attitude regarding money bills.

As the time approached for a third presidential election, the firm hold of Washington upon the confidence and the affection of the voters became more and more manifest. The fact that the question of whether an elector would or would not vote to make him Chief Magistrate for a third time proved to be, after all, more vital than any profession of party faith, and shows clearly the state of public opinion. Incidentally, too, it exhibits two other peculiarities of American politics, still noteworthy: (1) that the power of scurrility and abuse, especially in a noisy and inflammatory press, is after all very slight and reacts on those who have recourse to it; and (2) that the scolding discontent of the people heaped upon a public servant is more for correction than abuse. Whether purely from high policy or because of his mortal weariness, the President flatly refused a third term, and on September 17, 1796, published a farewell address, modestly admitting his services to his country, but deprecating any further use for them. He appealed for the preservation and cultivation of

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unity, religion, education, and public honesty as the foundations of government, and warned against permitting any intermeddling from without in our affairs; and, the reverse, any close relation or entangling alliance with foreign powers. At the license of the press and the irresponsible shriekings of demagogues he aimed a terrific blow, denouncing partisanship; and with weighty utterance said, "All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberations of the constituted authorities," fatally sap the sense of duty in every individual to obey the laws made by a government he himself helped to establish.

In the election which ensued the Federalists claimed to be the authors of the government, the heirs of Washington's name and power, the friends of neutrality, of peace and prosperity. The Republicans asserted that they were the protectors of liberty, of the rights of man, of the rights of the States; that they alone practised economy; and that the Federalists were not American, but English. The most stupid feature of the election was a proclamation by Fauchet, French Minister and successor to Genet's folly, that the French Republic would have no dealings except with a Republican America. When the electors met there were seventy-one votes for John Adams, sixty-eight for Jefferson, fifty-nine for Thomas Pinckney, thirty for Burr, and the rest scattering. This secured a divided administration—a Federalist President, a Republican Vice-President; theoretically a non-partisan executive: but in reality it created a situation most grave and entirely unforeseen. The ability of the Republican Vice-President

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was so much keener and quicker than that of Adams, whose ablest colleague, Hamilton, sulked in his tent, that the dignity of the presidency was menaced by so unhappy a combination. This began the discredit of the electorate system. Death, disability, impeachment, and removal might reverse the intention of the electors.

Possibly a more important phenomenon than this was the fact that every Southern State except Maryland chose a majority of Republican electors, while most of the Federal electors came from Northern States. This was the beginning of a cleavage which has been all too permanent and has linked party government in America, so far at least, indissolubly with sectionalism. It was, however, inevitable that the widely varying interests of vast districts and areas in the continental possessions of the United States should exhibit themselves as soon as the permanency of the system seemed assured.

Finally in this connection it became clear that the Federalists had fixed ideas of constitutional development; that they claimed a monopoly in the traditional idea of government; that popular interference in an administration once set up was sedition; that their reverence for constituted authority was a fetish. These things they proclaimed from the bench and in their press, even from the pulpit. It was equally clear that the Democratic-Republicans held nothing sacred except the principles of the Revolution, the right to overturn established government.

X

OVERTHROW OF THE FEDERALISTS

1797-1801

Sectional differences and party inconsistencies—French politics and American factions—Federalist triumphs—Republican appeal to local feeling—Mixed successes of both factions—Effect of the Alien and Sedition laws—Triumph of the Republicans—The disputed election—Federalist principle in the judiciary—Disintegration of the Federalist group.

THUS far in the evolution of American parties there was no division of feeling regarding maintenance of the Union, no manifestation of religious or race opposition, no divergence of opinion regarding the tariff, though one side had a marked preference for indirect taxation and the other professed an equal aversion to it. In a sense, the sectional and economic divisions were one, since the South was purely agricultural with a patriarchal system of labor, while the North added to the system of small holdings in land some manufactures and much commerce. Nor was the division exactly social, because the ruling class itself was divided and the ambitious rising class was uncertain which way to seek its interests, whether by private enterprise or by the use of government. Outwardly there was no consistency; Republicans could support the Federal administration in matters ruinous to their theory, and, *vice versa*, the Federalists still esteemed State right and control as more important than central. The true distinction between those who were eventually to divide on party

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lines was, in Washington's phrase, "the fatal tendency" to attack traditional ideas of government and undermine established authority.

Meantime foreign relations forced themselves imperiously upon public and official attention. The French Directory was outraged by Jay's treaty, expressed contempt for American government and affection for the American people, expelled the government envoy, Pinckney, and refused to receive another. When Adams on May 15, 1797, summoned the Fifth Congress to an extra session he explained his desire for peace and proposed a mission of three envoys—one Federalist, two Republicans—to treat at Paris. There was a Federalist majority in both branches, the plan was approved, and the session adjourned on July 10th. The summer discussions were hot; each party charged the other with sacrificing home to foreign interests; a traveler wrote that he found many English, many French, but no Americans. In Paris the Republican members were treated at first with consideration, the Federal member with contemptuous insult; soon the outrageous conditions for treating with the embassy were made known by French go-betweens. Anonymous letters demanded as preliminary to all negotiations that there should be, first, substantial gifts to French officials; and then a public loan by the American government to the French government. These were signed "X. Y. Z." Our envoys rejected the proposition with proper scorn and sailed for home; immediately French ships began the capture and condemnation of our merchantmen. These facts were known, but were received by our politicians and people with singular indifference, at least for a time.

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But when the first session of the Fifth Congress began, the "X. Y. Z." letters were, on demand of members, laid before it. England secured copies and published them to the European world. The Federalists found an immortal catch-word: "Millions for defense, not one cent for tribute." The Republicans were confounded, public opinion flowed into one great central current. Congress provided for a provisional army, with Washington as commander; armed new ships, and ordered the navy to retaliate on French vessels which had been aggressors, suspended intercourse with France, denounced the existing treaty, and legalized privateering. These were all Federalist measures. Such success was intoxicating, and under its influence two others were passed, harmless and acceptable to all patriots as war measures; even in peace, consonant with high Federal doctrine—*viz.*, the Alien and Sedition laws. Under the former the President could summarily banish any dangerous alien or impose upon him fine or imprisonment; under the latter, which was to remain in force until March 3, 1801, the courts could fine or imprison any citizen combining or conspiring to oppose any measure of government or who should utter false, scandalous, or malicious statements against government, Congress, or President. To those who believed in the new-found right of revolution, in freedom of speech, in liberty of the press, such legislation was portentous. But the Republicans, storing their ammunition for the elections of 1800, did not resort to violence of language or conduct. The French Directory were cowed; they disclaimed the "X. Y. Z." letters, and offered terms of peace, or at least a composition of differences. The Federalists did not repeal the two obnoxious measures on the

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prospect of peace; had they done so the history of parties might have been different. Instead, they enforced them with ever-increasing vigor, hardened their conviction, and prepared for embattled party strife.

This attitude called forth the historical learning and political adroitness of the Republicans. As during the Wilkes agitation on a similar principle the English Whigs had succeeded by passionate appeal, not to the people at large, but to local authorities, so now Jefferson and Madison turned to the States where they had most influence. Certainly their ideas, and probably their language, appear in the resolutions of 1798 and 1799, passed by the legislatures of Virginia and Kentucky. These are important documents, as being the first published manifesto of the opposition on a strictly constitutional question. Their gist is that a compact must be kept by both parties to be valid, that the Federal government had violated it in the Alien and Sedition laws, and that there was no redress except in nullification. The First Article of the Constitution forbade interference with freedom of speech or liberty of the press; the laws were unconstitutional. Kentucky carefully set forth a conception of nullification widely different from the later significance attached to that winged word, since it "bowed to the laws of the Union." There was no concerted and combined stand of executive, legislative, and judiciary of either State to prevent the execution of these laws by the courts. The resolutions were everywhere read, and widely commented upon: but on the whole they failed to arouse much passion or incite to further action. Ten other States have since that date indulged in threats of nullification, more or less complete, but each in turn with like

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results: much talk, but general indifference. Jefferson thought that even under the Confederation the States might coerce a recalcitrant group; secession from the Union was unthinkable. This appeal from general to local powers remained a party device until the climax of social, local, and economic division was reached, when it was tried for the last time and resulted in an effort to disrupt the Union. Since the verdict of the Civil War was pronounced it has fallen into desuetude, or, when suggested, into contempt.

When the corrupt and licentious Directory was ended at Paris as too disgraceful for the French people and incompetent to absurdity, not only at home, but abroad, the transitional form of military despotism styled the Consulate came into power with Bonaparte as its creator, prime mover, and controller. There was still what is technically styled an imperfect war between France and America: our privateers, armed merchantmen, and war-ships fighting intermittently but successfully with French vessels. In the second session of the Fifth Congress the majority was still Federalist in style, though many members were most uneasy under the attacks made far and near upon the policies thus denominated. It voted and carried measures for the increase of the navy, manifestly imperative: but those for increasing the army met with firm resistance. There were murmurings that the military faction was planning to create places for use in electioneering. When Adams proposed what was really a statesmanlike course, the trial of another three-headed embassy to France (February, 1799), two members of his Cabinet formally protested, and the Federalists generally withheld their approval. The contempt which Hamilton now felt for Adams was scarcely concealed and was soon to be openly

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expressed. When Congress adjourned on March 3, 1799, the President saw that he must act or lose the respect even of his friends, and accordingly he despatched his three envoys to Paris. Bonaparte was already clear in his mind that the sea power of the English must, if possible, be offset by building up that of the United States. He was entirely friendly to the envoys, and a treaty was quickly arranged.

When the Sixth Congress met in its first session the effect of war-feeling on the elections was seen in an increased Federal majority. But neither that fact nor Adams's success with France could allay the bitterness within the party nor the irritation against it in the country at large caused by the Alien and Sedition acts. Men were going to jail and paying heavy fines for indulgence in a loose tongue regarding persons and policies, the public character of which made them at least fair topics of discussion, if not of scurrilous abuse. But Jefferson still held his party machinery in hand; the day of his triumph was near, the presidential election was in sight. Yet when the two factions—or, rather, their leaders, for the caucus idea was still inchoate—met in consultation, they agreed, the Federalists on Adams and Pinckney, the Democratic-Republicans on Jefferson and Burr as their respective candidates for the presidency and vice-presidency, with no outward appearance of rupture, and Congress adjourned on May 14, 1800, with rather less turmoil, either in it or in the country, than ever before.

But there was intense feeling, far and near, and when the State of New York chose a Democratic-Republican legislature, with the certainty that, therefore, its members of the electoral college would be Re-

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publican, panic seized and tore the Federalists asunder. Adams dismissed the friends of Hamilton from his Cabinet, and Hamilton published a studied, powerful arraignment of Adams. There suddenly appeared the truth, long concealed, that there never had been organic union in the combination of heterogeneous political elements which, combined for one end—the establishment of government—were now hopelessly divided as to its conduct. Adams, in a kind of despair, had recourse to an idea of so manipulating the election as to make Pinckney President, with himself in second place. As the various States chose their representatives, the total result appeared doubtful, and certainty was reached only when South Carolina went Republican. The hope of even purgatorial salvation seemed to the Federalists extinguished. Those of them who were sincere patriots and convinced that only through their doctrine and its application could the future be secured for unity and progress, made ready for a desperate final stand to save at least their principles, if not themselves.

The second session of the Sixth Congress convened on November 17, 1800. It was found that of the electoral votes there were 73 each for Jefferson and Burr, 65 for Adams, 64 for Pinckney, one for Jay. There being no highest name, there was no choice, and under the Constitution the House of Representatives, voting by States, was now to elect. Of the sixteen States eight voted for Jefferson, six for Burr, and, the electors of two being equally divided, these did not count, so that there was no majority of the States. The balloting continued for six days with the same result. If this were to go on from week to week until March 4, 1801, Jay, as

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having the next highest electoral vote—one, to wit—would provisionally and technically be President, though such a case had not been specifically provided for, and it was widely charged that the Federalists so desired to defeat the popular will; but finally, on February 17, 1801, ten States voted for Jefferson and four for Burr, who were thus elected and in due time inaugurated.

But if the Federalists could not defeat the popular will in the executive department of the federal government, they could and did in the almost equally powerful one of the judiciary. By it alone, Adams believed, could the Constitution, already wrecked and almost derelict, be kept from utter destruction. He therefore called Jay to the chief-justiceship, then vacant. Jay declined on the ground that a system so defective would deprive the Supreme Court of weight in the public confidence; thereupon John Marshall, Secretary of State, received and accepted the appointment. This was but a beginning of what was stigmatized as the crowning disgrace of Adams's administration: the filling all vacant offices with Federalists, the creating of thirty new judgeships and appointing Federalists to them. The work of signing commissions for partisans by President Adams and Secretary Marshall, who held over for the purpose, ceased only as the clock struck the hour which ended the administration of Adams and tolled the knell of the Federalist party.

For with the death of Hamilton it is customary to say the Federalist party had neither head, brains, nor leader, and could not begin the work of its regeneration. True in a sense, this is untrue in another, for the one principle of union in the men who had borne the name was now safely entrenched in the federal

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courts; and John Marshall, in the long years of his activity, commanded the respect of his own people and of the world in perpetuating Federalist ideas: union, nationality, respect for law and authority, in the series of energetic, weighty, dignified decisions whereby the Constitution became what it is and was intended to be—the conservative power in a progressive democracy. Outwardly the work of the patricians seemed undone, the radicals to have taken up the task of further destruction—as Fisher Ames tersely put it, to have undertaken the impossible task of governing without government. But, as is so often true, it proved that men in office are quite other than what they are, or seem to be, when storming the ramparts of responsibility.

XI

DEMOCRATIC-REPUBLICANS

1801-1805

Jefferson's program not revolutionary—Enforced conservatism—Measure passed—The French acquisition of Louisiana a sobering fact—Violations of strict construction—Louisiana purchase—Failure of radicalism—Jefferson re-elected—Party existence *vs.* party measures—Contradictions self-explanatory—Anglo-Saxon tradition of united powers—Party leaders and party masses—Narrow margins of success.

SUCH is the bondage of political habit that, with no effort to find new principles as a cement, the Federalists seemed to perpetuate themselves by inertia. With the judiciary anchored in their single principle, it is not true that the election of Jefferson and the transfer of power to his party was a revolution. On the contrary, the leaders of the gentry were, most fortunately for the nation, split in two, and each group by an exercise of personal influence succeeded in substituting by personal initiative their own policies for party programs. In his inaugural Jefferson announced no revolutionary principle and no catalogue of extrinsic interests; he desired the plenary powers of the States, the payment of the public debt, the reduction of army and navy, the diminution of taxes (and many of his followers wanted them direct), a low tariff, and the use of the precious metals for money, the face of coins representing their intrinsic value. Much of the wealth, learning, and refinement of the country still remained

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in the Federalist party, but much also was now on the other side. To such a program there could be little retort except to stigmatize the President as a free-thinker and a radical, to throw deserved suspicion upon Burr and his sinister character. To the Federalists the Democratic - Republican combination seemed a cave of Adullam, a band of Jacobins, with its clubs, regalia, and fire-spitting. But that was all; the Constitution was to be maintained, strict as its construction might be.

Jefferson socially announced the policy of "pêle-mêle," democratic simplicity. But some order there had to be among his turbulent followers, and it was he who began to enforce the rigid etiquette now in vogue. Federalist gentry did not need rules; they knew how to conduct themselves. The President behaved from the first with caution, pardoning offenders under the Alien and Sedition acts, which began to fall by their own limitations and did not need to be repealed. His supporters were greedy and clamorous for office; but he did not remove existing officials, except as they notoriously used their places for partisan Federalist propaganda, or as they had been put in office after the results of the last elections were clearly known. Even when the Seventh Congress met in its first session on December 7, 1801, the items of his program were made law with good temper; the only simplicity was the sending a message to be read instead of reading it in person, and the only Jacobin measure was to reduce the years of residence necessary for naturalization from fourteen to five. All this was constitutional in the strict sense, but the repeal of the Judiciary Act was very loose construction. It was a pure party measure, and, though it ousted the twenty-four "midnight judges" by an-

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nihilating their courts, no attack was made on the Supreme Court with Marshall at its head. Congress adjourned on May 3, 1802; and, behold, it had been national, if not federalist.

It was, moreover, a staggering blow to radical Jacobin Republicans when Bonaparte wrested Louisiana from Spanish hands, for this made a French western frontier as adamant as that of the north against the other strong European power. Jefferson, an atheistic, radical President, had to make the strongest possible remonstrance to the atheistic, radical Consulate of France, setting forth that America must regard this action as unfriendly; and when the remonstrance seemed to call forth only mild contempt, the cup of the French sympathizers was full. With feeble Spain on two borders, a "government without government" might have some chance of working out its destiny; with powerful neighbors on its two most extensive borders, the military, official, aristocratic class just put out of doors would have to return, if only by the windows. When the second session of the Seventh Congress met, Jefferson could inform them that eight millions of the public debt was paid; but he had also to tell them that, weak as Spain was in her continued occupancy of New Orleans, she had closed the mouth of the Mississippi to American commerce. Much nerve went out of the Democratic-Republicans; they denounced such conduct, but their positive measures fell flat; they could not amend the Constitution in securing new rules for the presidential election, nor abolish the mint on the ground of expense, nor secure an arraignment of the Treasury for mismanagement. A portion of the Northwestern Territory had been organized by the Confederation

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on July 13, 1787, in an ordinance forbidding slavery in the territories. An act was passed on November 20, 1802, providing for the admission to the Union of the eastern section, and on February 19, 1803, Ohio became a State. This was indeed a novelty, a State in which there could be no slavery.

The Constitution states the irreducible minimum by which colonies never independent or sovereign, turned into States not by independent or sovereign, but by united effort, were willing to form a real union, relegating whatever independence or sovereignty they may have claimed to a very secondary place. The strict construction of this minimum was never more than a theory; it was rapidly becoming absurd in the face of hard facts. Violated already by its self-constituted guardians in the repeal of the Judiciary Act, it now received a staggering buffet. Bonaparte unveiled his real policy of weakening Great Britain by strengthening the United States when Livingston and Monroe, with no authority, consented to the purchase of the vast foreign domain known as Louisiana. What was Jefferson to do? With the lame excuse that he was a temporary guardian acting for the Union as ward, which would ratify his act by constitutional amendment, he acquiesced. And so did the nation. When the first session of the Eighth Congress opened, both Houses were Democratic-Republican. They ratified the treaty and appropriated the money, but would not amend the Constitution for such a manifest necessity, though they did amend it to regulate presidential elections by the existing Twelfth Amendment. The majority defending its course in debate, and the minority attacking it, the positions of the two parties were exactly reversed.

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It would perhaps have salved the feelings of many radical Democratic-Republicans if they could have impeached and removed from office some Federalist victim. They tried it in the case of Judge Chase, of Maryland, for arbitrary and oppressive conduct on the bench regarding the Alien and Sedition laws. But there was another awful shock when Burr, who was meditating deep plans, proved in his office as president of the impeachment court to be altogether impartial and the moderate wing of the party to be very untrustworthy. The effort failed; Congress adjourned on March 27, 1804.

As in the previous presidential election, the leaders on both sides agreed on candidates for which it was understood the respective electors could vote: Jefferson and George Clinton—not the dangerous Burr—C. C. Pinckney and Rufus King. The summer's campaigning resulted in the overwhelming triumph of the Democratic-Republicans, their opponents being victorious only in Connecticut and Delaware. The Federalists were not even nominally a party anywhere except in New England. Once again in the second session of the Eighth Congress the theorists of the party in power endeavored to pass a measure to their liking; infuriated by the failure of the Chase impeachment, they brought forth a plan to make both impeachment and conviction easy, but it was rejected. With such an experience, and with such lessons inculcated by the nation, Jefferson, receiving, with George Clinton, 162 out of 176 electoral votes, was a second time inducted into office on March 4, 1805.

This rather jejune but sufficient recapitulation of fact exhibits a stage in the formation of American parties which is highly instructive but very hard to

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explain. The Democratic-Republican rule began as theoretical; it had already become practical, not to say pragmatic. It began with a constituency of middle-class folk; it now had its share of the patricians. Its character was strict construction, every provision seemed violated; its radicalism had a strange appearance of conservatism; its colonialism was transmuted into nationalism, and its fiery Jacobin clubs were now sober workers for a party. Nowhere is religious denominationalism so rampant as among Anglo-Saxons. Why is separation and faction in party politics so impotent in both Great Britain and America? Reference has been made to the generally accepted explanation that where legislation proceeds from below upward there can only be a positive or negative attitude, while, conversely, groups and factions are necessarily formed in regard to political measures proposed from above, and not arising either spontaneously or from necessity in the mass of the party. While this may be true in large measure at a later time, it does not explain the process described.

Most frequently the best explanation of any historical phenomenon will be found in the simple sequence of events. It is very helpful to observe how the importunacy of greedy office-seekers led to one violation of strict construction; how the first step in Bonaparte's aggrandizement of America was misunderstood and brought new conceptions into narrow minds; how his second step produced an ineluctable need and pulverized a theory; how casuistry failed to explain illogical conduct—in other words, to note the dealing of practical with pure reason. It is equally helpful to remark how responsibility tempers zeal, how occasion compels distasteful action, how the personal ambition of one man enters the arena to joust with

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that of another, and how public opinion, partly formed and partly cressive, on the one side checks its favorites and on the other makes new deposits of confidence in them for obeying its behests. These two sequences exhibit progress according to the qualities of human nature, always the same, but never entirely consistent; in fact, prone to laud consistency, but sure to reward the inconsistency which it dimly discerns to transcend mere human law and logic in conformity with a categorical imperative it does not understand, but recognizes with awe as ultimate.

Some further light is cast on the riddle by considering habit. Political power was consolidated in England by an absolutism antedating that of the Continent by centuries. What became a deliberative assembly was at first summoned by an absolute monarch to parley with him—that is, to record his decisions and legalize his behests, passing them down to the mass of the people. When the barons resisted they had the people with them in every conflict, and in time the most divergent elements socially and racially were thus welded into a homogeneous people, with leaders partly inherited, partly chosen, who were trusted and obeyed. When, therefore, the crown, by the folly of the Stuarts, was put in commission, the successors of the barons, the aristocracy, inherited an undivided power. To all Anglo-Saxons the conception of government as a whole is fundamental; they cannot think of government as a mosaic of parts held together by extraneous forces; they blindly feel its unity. The Whig nobility made the revolution of 1688; and while, after it, they quarreled over spoils, yet they dared not show any scission or split to the country, and

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thereafter down through the history of parliamentary and congressional government the questions at issue have been, not those of factional interest in change, but of party struggles for the control of administration. The outs want to get in, they seek legislation to justify their struggle, but they do not attack government itself.

This was the colonial inheritance of the American gentry, and they were united in getting government established. This done, they divided; and as each division struggled to keep or get administrative control, two types of political conviction, and only two, were possible: a minimum of control to the federal government and a maximum to the States, or the reverse. Here were the nuclei of real parties. But parties consist of leaders and led, however composed. The initiated want power primarily; its use is secondary, but the led can only be kept in hand by a certain use of power, or at least the promise so to use it. Hence for these masses there must be war-cries, badges, myths, heroes, superstitions, cults; for the leaders, fine phrases, abstract theories, a fiery zeal and conviction. So it was in the formation of the Democratic-Republican party, the first and the most permanent of parties in American history. Consistency could not save it, nor inconsistency destroy it; about its simple creed men of all sorts could rally.

Moreover, its earliest experience has been repeated to the last. Its successes have lasted long; but, being subject to a wide play of thought and feeling while at the same time under the moderating, persuasive control of the few, they have been gained by small numbers of votes. Adroit as the party manager may be, and sensitive to the demands of his

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voters, he is likely to win many at the cost of losing many, and his success in the nice calculation of results constitutes his supremacy. Jefferson was no exception; he is the hero eponymous of millions of Democrats at this moment; but it was public sentiment at whose shrine he worshiped.

XII

RISING DEMOCRACY

1805-1809

Lack of a strong opposition party—Secession in the Democratic-Republican ranks—Non-importation Act—Change in Democratic-Republican temper—Executive interference with courts—The Burr trial—Disappearance of European influence—The Embargo and sectional interests—Jefferson's failures—His personal leadership—Relations of State and federal politics to parties.

It would seem as if the inconsistency between avowed principle and practical politics could have gone no further, but it did. Under the stress and strain of holding power amid untoward conditions, Jefferson's ingenuity and impulse led him far, far into the wilds of loose construction. When the Ninth Congress met on December 2, 1805, it had a strong Democratic-Republican majority. New England was the only section remaining true to Federalism; but, though influential out of all proportion to its size, the minority was not sufficiently numerous for effective opposition until it formed a strange coalition with a body of disaffected Democratic-Republicans under Randolph, which it speedily did. These were known as the "Quids." Humiliated to the dust by both France and England in the contemptuous treatment of our commercial rights by both, the outrage of each was measured only by its strength at the moment. But Jefferson would not and did not approve of a strong navy. Its creation would mean

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immense expenditure, increase of nationalizing force, and the diminution of purely civilian prestige. So he conceived and carried out a scheme for building many cheap little gunboats; they proved worthless and ridiculous, and, being stigmatized as a "mosquito" fleet, his second administration began in a guffaw.

But this could be endured; not so the closing of the Mississippi, with the increasing arrogance of the petty Spanish officials in New Orleans. The facts he communicated to Congress were referred to a special committee of which Randolph was chairman. Able, irascible, and vindictive, this man could only live in opposition, and so he produced a report in the Federal interest which was a challenge to Spain. It was rejected somewhat contumeliously by his own party and a substitute adopted authorizing the purchase of or exchange of Louisiana lands for East and West Florida. There was the usual recommendation to amend the Constitution for this new purpose, and, as usual, it was not entertained. The Quids formed a coalition with the Federalists, and with them considerable sympathy was shown in Democratic-Republican ranks. This prepared the way for the next party inconsistency. Noteworthy is the growing influence of personality.

In 1806 talk of retaliation upon the wreckers of our commerce grew general. Finally Jefferson, averse to war as inconsistent with his professions and policies, devised and had presented to Congress, and carried, a substitute which forbade the importation after November 15th of certain British goods (93-32 in House, 19-9 in Senate). The majority was so large that it seemed an auspicious time to introduce once more his favorite measure and legislate for

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the easy removal of Federalist judges: but, ominously enough, the effort failed. With easy inconsistency it was then voted to expend the surplus revenue on a great highway—well named the National Road—from Maryland to Ohio. It seemed a natural, useful measure; but it was national, and introduced to our politics the question of spending federal money for internal, inter-State improvements without constitutional amendment. This and slavery were to become at a later date the dividing-line of great parties. It is noteworthy that the Democratic-Republicans were more and more ready to adopt measures they believed would be legal only after constitutional amendment for the purpose, but that there was a greater shrinking from tampering with the Constitution and a greater readiness to do what they believed violated it.

The summer was lively with national politics. The Quids wanted a sympathetic candidate for the presidency, and tried to bring Monroe from his post in England to use him as such. Jefferson was so notoriously inconsistent that there seemed a chance to unseat him. The Embargo Act was a fatal extension of national authority, the supplementary Enforcement Act still worse, passing measures which might be claimed to be the exercise of war powers by its infringement of personal rights. A still more flagrant violation of his principle was his action regarding Burr, the injection of his own personal influence and activity into the courts. Burr's influence disappeared in his party disloyalty during the Chase impeachment and in the suspicions of sinister behavior in the Hamilton duel. His movements on the Ohio and the Mississippi savored of treason and conspiracy. He was suspected of colonizing designs in

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order to attack Spain and found a new state; and Jefferson ordered his arrest with no regard to what his executive power in such a case might be. When the Ninth Congress met in its second session on December 1, 1806, the President's message showed an ever-growing surplus due to economy, recommended a constitutional amendment permitting its use for roads, canals, and education, and informally he expressed readiness to extend the national banking system into the Territories. He likewise suspended the Non-Intercourse Act, or Embargo, during negotiation with Great Britain for a new treaty. There came such alarming news about Burr that the Senate voted to suspend the Habeas Corpus Act for three months, but what was then the popular branch in name and fact refused. It was a symptomatic difference. Meantime Burr's expedition had collapsed, and he was on his way to Virginia, where he had organized it, to be indicted and tried.

When the new treaty with Great Britain had arrived it was found to be no improvement on that made by Jay. Jefferson did not even lay it before the Senate, on the plea that he must try for further negotiation. This angered the Federalists and infuriated the English. Non-intercourse was to be tried, and the British government renewed aggressions in a spirit which eventually precipitated war. Burr's trial was a political contest. The question of Jefferson's conduct and jurisdiction was at once brought forward: the Federalists claimed that the President had exceeded his authority. Should prosecution fail on such grounds the prestige of Jefferson would be more seriously jeopardized by proven inconsistency than ever before. His anxiety was such that he virtually conducted the case himself, thus

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utterly exceeding all bounds of constitutionality. He did secure an indictment, but the prisoner was acquitted for lack of jurisdiction. This was an evasion of the party question technically, but it was a staggering defeat for the administration.

Further perplexity arose as the British grew more and more insolent; in June, 1807, the *Leopard* impressed four seamen from the *Chesapeake* just off the American shore, and the news so astounded and outraged the country as to put a peace-loving President into a serious quandary. So he did nothing, and displeased everybody, even his own supporters. The British had declared the notorious paper blockade of the Continental shores under French control; France retorted with an almost identical proclamation against the British Isles; the British ordered their ships to search any suspicious vessel for French wares; the French ordered the capture of any ship submitting to such search. Between the utter recklessness of both, our flag was vanishing from the ocean; as the British were stronger, their aggressions were more numerous and savage. So then the last vestige of either French or British feeling disappeared from the United States. The Tenth Congress, in its first session, met on October 26, 1807. Jefferson had already closed our ports to British war-vessels; he now recommended a complete embargo on all foreign trade, and this was carried by a strict party vote. Here, said the opposition, was commerce sacrificed to agriculture, personal rights blown to the winds; worse than war was a measure which would hurt ourselves and do little or no damage to our foes. Congress was impressed by such declamation and gave the Executive the power of suspension. Feeling ran high; and, though Jefferson was asked

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by the legislatures of most Democratic-Republican States to serve a third term, he declined. This time the congressional caucuses were quite formal; one nominated Madison and Clinton, the other Pinckney and King. Adjournment was had on April 25, 1808.

The one question in men's minds was the Embargo. The commercial men of New England and the Middle States were distracted by the prospect of impending ruin; vacillating between the awful alternatives of submission to Great Britain or war, military and naval or commercial. Moreover, the war party was itself split, some demanding an attack on Great Britain, some on France. With this hopeless dismemberment of public opinion in opposition to the Embargo, and the wide preference for maintaining it in support of the administration, the election was favorable to the Democratic-Republicans, only the Northeastern States choosing Federal electors. Yet the predominant party was uneasy. When the second session of the Tenth Congress began on November 7, 1808, it was moved to pass terrific protests and hurl menacing resolutions against both the belligerent powers.

But it would not repeal the Embargo Act, which was to run at least into the following year. John Quincy Adams, Senator from Massachusetts, had voted for it, and was morally compelled by a storm of indignation to resign his office. He now declared that his former constituents were conspiring with an agent from Canada to secure British aid for secession. Jefferson believed the report, secured a modification of the embargo by the passage of the Non-Intercourse Act, a substitution really more unconstitutional than the original, and rewarded Adams with the post of Minister to Russia. There has been

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hot polemic over Adams's statement, and his assertions remain unsupported by sufficient evidence. His friends think he saved the Northeast for the Union. There were 122 electoral votes for Madison as President, 6 for George Clinton, and 46 for C. C. Pinckney; for Vice-President, George Clinton received 113, Rufus King 47, and there were 15 scattering. Congress adjourned on March 3, 1809, and next day Madison and Clinton were inducted into office.

The retrospect of Jefferson's official career indicates that, so far from having founded the party which admitted his leadership, he nearly disrupted it during his term of office and left the presidency because unity was endangered. The later Democrats confessed his failures. He eradicated no great evils; subordinated the State judiciaries to the federal; was indifferent to the idea of the States as parties to the constitutional compact; settled nothing as to powers delegated or retained; gave Congress no prestige in the guardianship of its own powers or in legislating to preserve and work them; did not fix its relations to other departments of government, undid nothing of Hamilton's work in tying the government to banks; did not limit the money power itself to objects specifically enumerated and delegated by the Constitution. This was Calhoun's true bill of indictment. What he did which he himself believed unconstitutional we have noticed in its various connections. Yet Jefferson in retirement accomplished what in office he failed to do, and this because of his inherited character, with which, while in action, he could not reason. What he did he had to do under the categorical imperative of his race and his age; what he said as a sage became the

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charter of a party with the working of which he had very little to do.

Personal leadership was as old as English government; it did not cease in Anglo-Saxon politics with the revolutions of 1689 or 1776. There was still a very limited suffrage in America: voters were a privileged class; only six of the sixteen States in 1800 gave the ballot to every adult male. The leaders of this small class—about one-tenth of men over twenty-one—were not selected by machinery of any sort, but commanded their control by fitness to exercise it. Moreover, office was still a personal possession, and to deprive the holder of it a kind of robbery. Patronage, therefore, could be used for party purposes only by filling vacant offices and creating new ones. So when a position sufficiently attractive was open, the man Jefferson could address the man William Wirt as he did, offering as a prize for his support in public life any great official position in his gift; while, on the other hand, he dared not make a great sweep of removal, but must have some plea for each of the few cases when he did use the power he unquestionably had. It was a sufficient reason if the occupant were actively disloyal to the administration, and even Washington had thought it suicidal to appoint any but active helpers. Office-holders notoriously neglected their duties for political activity, and no offense was given. The use of patronage, like that of personal influence, required infinite tact. Adams thought he lost his second term by a mistake in patronage: the Muhlenbergs, failing to secure what they wanted, alienated the already important German vote and gave it to Jefferson.

By this time the relative values of State and federal politics were settled; they were not co-

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ordinate, and the State parties were fixed on national lines with national names. It was Jefferson who began the making of State affairs contributory to national interests. For the reasons just given it was very difficult in the South, where office was an honor, not a business; where the rival factions reflected common traditions and were slow to secure party service by place-bribery. But much was accomplished in the social gatherings of the gentry, where understandings were reached and ends secured by mutual concession and fair dealing. Jefferson had an easier task in the North. In New York, at least, things were for a time much as in the South, and Hamilton secured and kept his hold by combining the Livingstons and the Schuylers against the Clintons. But there was a class all over the North which did not exist southward except perhaps in Kentucky, men of moderate means and great energy, who felt the close relation of the state to their own affairs, took a keen interest in politics, local and national; and, even with the limited suffrage, were too numerous to be ruled by gentlemen's understandings. They liked office and saw that in combination they could get their share. Burr first detected the uses of Tammany Hall. But office thus obtained was not very secure, and it was Jefferson who discovered that in the use of federal patronage lay the control of State parties.

XIII

NEW POLICIES

1809-1813

Factors in the management of a majority—Growing exasperation with Great Britain—Democratic-Republican inconsistency in maintaining non-intercourse and closing National Bank—New leaders of Democratic-Republican party. Reversal of policy—The Declaration of War, 1812, for commercial liberty—Effect on politics of its checkered course—Elections. Madison and Gerry inaugurated—Party changes and sectional differences—Democracy a rising force—Open avowal of party organization.

THE United States were now familiar with the working of a national government by majority rule. The majority was secured in elections by appeals to principle, by campaign cries, by the personal magnetism of writers and orators, by catering to local and sectional interests. The majority once secured, its elected representatives had now an informal organization, the wheels of which were oiled by the use of the administration's patronage, by the self-assertion of party leaders in the use of personal influence, by their adroitness in compromise and in soothing ruffled pride, by the interplay of State interests and national parties, by the use of family influence—rapidly waning—and of political clubs growing in number and importance. These and many minor influences were factors in evolving parties and cementing their elements and in the management of them when created. There was and is one central sun about which they all revolve, the

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strict or loose construction of the Constitution. But no political division had, or has, the monopoly of either. The Federalists were at times loose, at times strict constructionists; so were the Democratic-Republicans, each in turn reverting to their natural temperament, each trampling on profession when faced by stern necessity, whether in peace or war. The national bank, the purchase of Louisiana, the National Road were loose construction and Republican measures in peace. The party went much further on the same line when forced to deal with war.

Madison's first term was coincident with our most acute troubles as a commercial people. Desirous of profiting by our neutrality when the European world was at war, we were thwarted in every expedient. Great Britain was suffering from the embargo, but, though vacillating, was still defiant. When her minister at Washington (Erskine) declared, prematurely, that the Orders in Council had been revoked, the President by proclamation suspended the Non-Intercourse Act and summoned a special session of the Eleventh Congress for May 22, 1809. Meantime any such action was disavowed in London; Erskine had been recalled, and Madison had canceled his proclamation. Congress, with a great Republican majority in both Houses, had therefore nothing to do but organize and then adjourn. The opposition denounced the whole business as an electioneering dodge of a coward peace party. This further exasperated the Democratic-Republicans, and when Congress met in its first regular session of November 27, 1809, there was no party conflict possible, for the war fever was rising. It renewed the Non-Intercourse Act, declared that the new British Minister was intolerable in language and conduct,

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and forbade the President to transact business with him. Adjournment was had on May 1, 1810, with the whole country in an expectant attitude.

The peace policy of the Democratic-Republicans was in abeyance. France had so managed in those days of slow transportation and difficult communication as to create in America an impression amounting to conviction that her decrees were no longer operative, though it proved unfounded. So when Congress met in its second session on December 3, 1810, it repealed the Non-Intercourse Act as regarded France. Madison, with peace in mind, proposed to Great Britain that her orders should be canceled. She entertained the proposition, but refused on the ground that no proof was obtainable of France's alleged action. So non-intercourse with England was maintained. The only thing that seemed clear was that both belligerents were uneasy about their relations to America, and this fact greatly emboldened those who desired war. The only other question of importance before Congress was the renewal of the charter for the Bank of the United States, which, after twenty years' successful operation, was expiring by limitation. The institution had worked so well that the Democratic-Republicans were almost equally divided on the question of perpetuating it; but the principle of strict construction, after long, earnest debate, defeated the proposed renewal of the charter by one vote in the House, and in the Senate by Vice-President Clinton breaking a tie with his vote in the negative. The bank began to wind up its affairs. Congress adjourned March 3, 1811.

Government under the Constitution had now been operative for nearly twenty-five years, and, while the fathers were still held in great esteem, there was on

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the political stage a second generation, a body of active workers, middle-aged and young, who were in closer touch with popular feeling. The Twelfth Congress in its first session discovered the same Democratic-Republican majority, but in it was a preponderance of younger men, impatient with the peace policy of their elders, contemptuous of niggard economy, outraged at the capture of nine hundred American ships in seven years, and determined to vindicate American honor. Their leaders were Clay, Crawford, and Calhoun, men of great power, with a following strong enough to dictate terms to the administration. The Democratic-Republicans were found to be a war party; older men, who could not change, joined the Federalists in opposition; but the President made terms and received assurance of support for a second nomination. He signed the bills, which were quickly passed, increasing the army, enlarging the navy, and rendering the State militia efficient. The congressional caucus fulfilled the promise of the young leaders and named as candidates for the electors Madison for President and Gerry for Vice-President. The most dangerous rival of Madison was an outspoken, fervid war advocate, De Witt Clinton, of New York. The legislature of his State assembled a caucus and nominated him; the Federalists of note gathered in the City of New York, joined the friends of Clinton, and offered as a rival ticket Clinton and Jared Ingersoll.

To put his sincerity and zeal beyond question, Madison purchased, for fifty thousand dollars, the papers of John Henry, the person declaring himself to have been the agent from Canada who in 1809 had sought to arrange the secession of New England. The documents purported to show the complicity

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of the British government in his mission. The British minister at Washington denied all knowledge of the affair, but the war party made great capital by denouncing the perfidy of England in such an insidious attack on the unity of a friendly nation. Such a revelation, if there were a shred of truth in it, was a serious reflection on the Federalists, and they were correspondingly exasperated. Congress announced as a preliminary war measure a complete embargo for ninety days. The British minister declared, possibly on his own authority, that his government would not be intimidated; but, before acting, the administration waited until assured by its agent in London that the ministry had really so declared in Parliament. Thereupon Madison at once sent a message to Congress reciting American grievances; the committee to which it was referred formally stated them, enumerating the impressment of American seamen, the Orders in Council, paper blockades, and the refusal of damages as cause for declaring war. This passed both Houses; of the majority of 98, in the lower 76 votes were from the West and the South. It is true that the orders had been revoked on June 14th, but the fact was not known; and had it been, they were only one item in the indictment, and such was now the war fervor that probably no effect would have been produced. On April 30th Louisiana had been admitted as a State, a slave member of the Union to offset Ohio, where slavery was illegal. On July 6, 1812, the first session of the Twelfth Congress was adjourned. War began almost at once by land and sea.

The course of the war was from the outset, what it remained to the close, very checkered. But while on land the British were more frequently the victors than the Americans, at sea the reverse was true.

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For the most part the naval battles were duels between single ships. The frequent and overwhelming successes of our flag, often with inferior force, produced an immense moral effect not only in the United States and Great Britain, but throughout the world. For the first time in the history of sea power the British had proved inferior—not in the dimensions of their forces, but in the quality of their fighting powers. It seemed as if Napoleon's idea of checking the British at sea by strengthening America was a pregnant one. But the American defeats by land and the burning of the national capital intensified the opposition to the war in America. Both parties to the conflict grew weary of it as time passed, for political strife in the United States was endangering the influence of party leaders; and the British, never very high-hearted in war with America, wanted an end to their humiliations. Nevertheless, the presidential election gave a large majority for Democratic-Republicans of the war stripe. On this question, as on others—a constitutional question in theory, likewise—the two parties completely reversed their positions. The Federalist Congressmen protested against every war measure, especially against one which put the States exactly in the degree of subordination which Federalists desired—namely, the requisition on them by the President for their quota of militia. Indeed, the Federalist governors of Massachusetts and Connecticut flatly refused to furnish any, and that on the strict-construction ground that there was no invasion of the country.

But the war majority was so large that in the second session of the Twelfth Congress, assembled on November 2, 1812, there was no party strife, espe-

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cially as the Quids, failing to secure Monroe as their leader, had in large number rejoined the Democratic-Republicans, who supported the administration. Some of them, however, true to Jefferson's peace policy, formed an alliance with the opposition, while a number of Federalists became supporters of the war. In a sense there were only peace and war parties for a time. The former was almost reduced to silence by the enthusiasm of the nation in celebrating our victories at sea. Americans only, it was proclaimed, were a match for the British on the ocean, and, whatever else might be questioned, there was no doubt that the navy was a national institution. Accordingly Congress passed measure after measure for carrying on the war. The electoral votes were formally counted in February. For President, Madison received 128, and Clinton 89; for Vice-President, Gerry 131, and Ingersoll 86. Congress adjourned on March 3, 1813, and next day the successful candidates were inaugurated.

These four years are noteworthy in party history and practice for changes of the first importance. Government had been established by a gentry, English in tradition and attitude, foremost in civil and military affairs; it was a division in this class which indelibly stamped the Constitution with its character, while creating a divergence as to its treatment and later its meaning. These early parties were strict or loose constructionist by turn, as the preservation of government demanded. To the fathers succeeded the sons, who at the outset continued in the old ways, but lived long enough to persuade themselves that the very navel of strict construction was State rights and to forget that in prosecuting the War of 1812 they had been a central-

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izing force. Democracy, as a state of mind, was rare in country districts; so the statesmen of the South and the West, whatever their birth, still wore the robe of aristocracy, forming their opinions in debate and impressing their views on the home constituency, respecting office as a personal possession, and forming policies in private consultation of small groups. The change was in the men.

Not so in the sections of the Middle and Northern States, concerned not only with agriculture, but with commerce, and now to some extent with manufactures. The cities were rapidly growing and rising into prominence; the changes in men's fortunes, education, and capacities were rapid; society and politics were more fluid; family ascendancy in politics was doomed. Democracy as a state of mind resulted in practice. Federalist statesmen did not hesitate to crush dangerous rivals like Burr and De Witt Clinton by the use of Federal patronage. The notion of office as a possession gave way to the conception, already familiar in New England, of a short tenure and comparatively swift rotation. Tammany Hall in New York was an example of plain folk exerting political power; though no other association has so preserved its continuity, there have been many imitations exerting great power for a time. These were the forerunners of the present party organism. Hamilton discovered the change, tried to found a rival, and Clinton resigned a seat in the Senate to become Mayor of New York and checkmate him.

Finally there was the disappearance of early distrust of parties. Faction might attack government, but party was its bulwark. Nothing so embitters an Anglo-Saxon as to be bored, nor makes him so

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dangerous. Party politics had become an absorbing, delightful sport. The use of patronage was as old as Great Britain. America cast off all disguise, and her statesmen used it without shame. The central government dispensed what was most desired—federal office—and in every State had a party machine; but State patronage brought honor and pay likewise, and there was beginning that play and interplay within the two classes of government which at one moment brought a Clinton to eminence by the construction of the Erie Canal, and then again cast him down through the seduction of his followers by federal patronage. Similar things occurred in Pennsylvania and other States. This interpenetration of the same party in federation and State worked on the whole for national unity; but for a time it seemed as if the new leaders would make the States more than co-ordinate in the struggle.

XIV

RISE OF PARTY GOVERNMENT

1813-1817

Discontent with War of 1812 a party matter—The rebellious attitude of New England—Inordinate demands of Great Britain—The Convention at Hartford—Its menace of secession repudiated—Character of the Treaty of Ghent—Parties and internal affairs—Novelties in party management—Agitation for reform of electoral system—Internal improvements a paramount question.

THE Treasury was by this time in great straits, and the Thirteenth Congress was called in special session, lasting from May 24 to August 2, 1813, to consider ways and means in finance. The President's message set forth the necessities arising from the war, and informed the country that the Czar had offered to mediate. The administration majority in the House was strong (Clayton was chosen Speaker by 89 votes to 54); in the Senate less so, because of personal jealousies and animosities. The routine business was duly transacted. Later Great Britain declined the Czar's mediation, and neither the measures passed nor the course of events could allay the ever-growing discontent with the struggle. To all the peace men and many administration men the great European conflict seemed near its end; and what might happen then to a small nation with narrow resources, single-handed against a powerful conqueror?

Particularly, the temper of New England became more and more defiant. The legislature of Connecti-

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cut declared the solemn, deliberate opinion of the people to be that the war was unnecessary. This was true throughout that section; and in order to intensify such opinion Great Britain relaxed—indeed, exempted from its operation—the blockade from the Connecticut boundary all around by the northeast to the Canada border. The New-Englanders were not slow to avail themselves of the privilege, and began to repair their crumbling fortunes by active trade with British ships. When, therefore, Congress met in the first regular session from December 6, 1813, to April 18, 1814, the administration war party was infuriated. The sack and burning of Washington had occurred in August, the President had barely escaped with his life by an undignified flight; and the New England Federalists were calmly repairing their fortunes by commerce with such a foe! A strict Embargo Act was therefore passed at once to end such a disgrace. Routine business was speedily transacted, and the session adjourned to put new heart into the people if possible.

This was not easy. What had been foreseen was occurring; and with Napoleon apparently conquered, it would not be long before victorious Britain would turn her attention to America. American and British commissioners were negotiating at Ghent. Madison instructed the former to insist on nothing, since the obnoxious Orders in Council had long since been revoked. Immediately the other party grew exacting; there must be an Indian buffer State between the United States and Canada; there were to be on the Great Lakes neither American war-ships nor on their shores American military posts. Impressment and damage claims were not even mentioned, at least audibly or distinctly. This was the news

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which greeted the second session of the Thirteenth Congress—September 19, 1814, to March³, 1815. Of course, the majority were angered and bitter. The administration threw strict-construction principle to the winds, proposing a national conscription for the army and impressment of sailors for the navy. But this was too strong for the whole majority, the party was not ready to stultify itself entirely, and the measures were not pressed. There was, however, serious and general discussion of granting permission for the enlistment of minors at eighteen years of age without parental consent. The legislature of Connecticut ordered its governor to resist such a measure, and all similar to it, should it be enacted into law.

The English having invaded and occupied portions of what is now the Maine coast, then Massachusetts, the federal government adopted no measures of resistance, and commercial ruin was imminent in all New England. As a measure of despair the legislature of Massachusetts called on the other legislatures of the section to select and send to Hartford delegates to confer on the subject of the public grievances. This was done, all of Massachusetts, Rhode Island, and Connecticut, with parts of Vermont and New Hampshire, being represented when the Convention met in December. It sat behind closed doors for three weeks, and the delegates from the respective States reported to their legislatures, urging amendments to the federal Constitution restricting Congress in its authority over commerce and forbidding naturalized citizens to hold office. Should such amendments not be adopted the report advised another convention "to decide on the course which a crisis so momentous might

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seem to demand." These were dark and ominous words. What did they mean?

Though peace ensued, and nothing followed from the Hartford Convention, yet the nation was disgusted with such cautious behavior and such suspicious language. Were these Federalists really contemplating secession, and that probably for a second time? Had the idea of nullification gone to that length? It might well be, in view of the New England temper in the past, their language then and now. In consequence the members of the Convention were discredited for ever. In vain they published the journals of their meetings, indicating that their purpose had been perfectly legitimate and that there had been no formal proposition of treason. The public had made up its mind; the mere suspicion of secession stigmatized the delegates in the general opinion; and the party whose name they bore was for ever ended, almost extinguished, though the name itself survived a few years before passing into oblivion.

The terms of peace decided at Ghent, and known in America during February, 1815, were a bitter disappointment. No concession was made by England regarding any one of the causes for which the war had been made; in form and language the treaty was a humiliation to the United States. Yet somehow facts regarding the negotiation leaked out which explained a certain new tone in the paper and indicated a new feeling in Great Britain. Anyhow, it was a peace; the administration was glad to be freed from its ever-growing money embarrassment; the merchants rejoiced that they could once more engage in commercial ventures, whatever the risk; and, finally, every one, for no apparent reason, was absurdly

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jubilant. There was in reality good reason: Great Britain had saved her face, but she had now been compelled to entertain a wholesome respect for the American navy, and without a formal promise impressment ceased. The United States, having been politically independent for twenty-six years, had never been commercially free. Thenceforth they were, and have so remained.

For some time there appeared to be only one single political party in America. One, and that the most important, principle of the Federalists, the continuity and perpetuity of the Union, was universally accepted, while at the same time the character of that Union and the interpretation of the Constitution were kept open questions, as the men of that party had never admitted them to be. When the first session of the Fourteenth Congress convened (December 4, 1815, to April 30, 1816), it set about readjusting matters to a peace footing, and the regulation of internal affairs, with a quiet mind. The army was reduced; but provision was made to maintain the navy at its existing strength. Taxes were lightened, and the tariff was revised. A charter was granted for a successor to the Bank of the United States: the old one had been a great convenience; it seemed needed more than ever now. The tariff and the bank were distinctly loose-construction measures. The debates on both of them exhibit the beginning of what were destined to become momentous party questions. In those on the bank every argument of Alexander Hamilton was used and elaborated; nationalism and loose construction could go no further. The tariff, when examined, proved to be a protective measure; the raising of revenue was used to protect industries established during the war, a prophetic phenom-

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enon. The second session (December 2, 1816, to March 3, 1817) was colorless except as Indiana, a free State, was admitted on December 11, 1816. The Democratic-Republican caucus nominated Monroe and Tompkins, while a sort of Federal rump caucus named King for President, but did not trouble to select a candidate for the vice-presidency. Massachusetts, Connecticut, and Delaware chose Federalist electors by a sort of inertia. The Democratic-Republican candidates, having received 183 electoral votes out of 217, were elected and inaugurated.

The times were pregnant with party novelties. The Constitution specified no method by which presidential electors should be chosen. So each State went its own way and not always the same way. The two Senators, or State ambassadors at Washington, were chosen by the legislatures; these bodies also might, and many did, choose electors, as, likewise, they arranged congressional districts, within each of which a member of the House was elected by the voters. By the manipulation of these practices it was not, or would not have been, difficult to defeat the general will. In 1800 the voters of Virginia gave a Democratic-Republican majority, but under the State constitution the Senate remained Federalist. By a series of bargains the Federalists secured seven votes for Adams; although these did not change the general result, yet such a possibility was a menace to popular government. Hamilton proposed to Jay, when governor, a plan for redistricting New York so as to secure majorities for a number of Federalists, but Jay refused his assent. To guard against such chicanery the Massachusetts legislature in 1804 adopted the plan of a general

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electoral ticket for the whole State, feeling that if any politician's device should result in defeating the manifest intention of a majority of the voters it would be a serious blow to our institutions.

The disputed election of 1800, the manœuvres to thwart the voters' will, and the rising tide of democracy all combined to create the movement for regulating by general law and practice, and so unifying, the system of selecting both presidential candidates and presidential electors; otherwise it was becoming plain that the electoral college would not be tolerated. The people of the United State were in this respect loose-constructionists, and, though unwilling to violate the Constitution, meant it should work so as to register their will in the choice of their general tribune, at least with a close approximation and some regard for State divisions. There were now three methods of choosing electors: by the legislature, by district voting, and by the general list. While up to and under Monroe the old system clearly registered public opinion, yet anxiety for the future led to a wide-spread agitation for electing the electors by general list and popular vote. Yet it came to naught because with existing methods the South could more easily work its dynastic, class-party machinery; and Pennsylvania, with the most heterogeneous population at that time of any State, looked to the South for friendly aid in the recurring crises of her politics. Nevertheless the agitation and discussion produced lasting results. It clarified opinion about presidential nomination, congressional districts, election manœuvering, the shameful inequality of representation, and, above all, made plain how strong the democratic tendency was growing.

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Each short term of evolution has within it the vanishing factors of the past and the germinating crescive elements of the future. Party aversion, Federalist centralization, family influence, patrician politics were vanishing; slavery, State rights, unification of system, tariff and protection, sectional interests, inequality of representation, and internal improvements were of present and growing importance. This last had to do with the general nationalizing question: Were men to say the United States are or the United States is?—a case of grammar and politics in close connection. In 1806 the federal government had begun the great enterprise of constructing the National Road; in 1808 Gallatin, Secretary of the Treasury, published a comprehensive unitary scheme of national roads and canals, which failed of adoption because of the war, and again in 1816 Calhoun embodied the idea in a bill which passed the legislature in both branches, but was vetoed by Madison as he left office, on the plea that, while such legislation was admirable, the Constitution should first be amended to make it legal. Monroe was confronted by the same problem. He too vetoed the bill on strict-construction grounds, but suggested that Congress not only had unlimited power to raise money, but discretionary power to control its appropriation, even as the Constitution stood, without amendment. The suggestion met with universal approval; appropriation bills covered not only common defense, but elaborate internal improvements. It seemed as if parliamentary British government had been established by American Republicans. Power was concentrated in Congress, being regulated by a premier President and ministry who named in caucus his own successor, a

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successor who throughout the preceding twenty-five years had been for the previous term Secretary of State, a President who kept his associates in place and made the Cabinet as continuous as the Senate.

XV

THE PEOPLE'S REPRESENTATIVE

1817-1825

Monroe's political travels—Compromise on the tariff—The rise of Andrew Jackson—Missouri and the slavery question—Alignment of rising parties—The Missouri Compromises (three)—Monroe's "Era of Good Feeling"—Exercise of the Veto—The "scrub race" for the Presidency—The Monroe doctrine.

MONROE'S advent to the presidency was a further perpetuation of what is often styled the Virginia dynasty. The general condition of sentiment and opinion was fairly clear, as is manifest from the public press of the day; roads were somewhat improved, though transportation was still slow, even for coaching days. The party situation was most peculiar, as has been explained. Washington in his times of trial had found it profitable to travel extensively in the States and make the acquaintance of important men; Monroe determined to follow his example, and did so. He was heartily welcomed everywhere, and his journey seems to have accomplished two ends—the final extinction of the old Federalism, and the cementing of good-will among all classes, not of course to the extent of changing opinion, but at least to that of strengthening pleasant intercourse. Urged to appoint men of various minds to his Cabinet, he refused, and selected Democratic-Republicans only; the time did not seem ripe to place others in positions then regarded almost as a prerogative insuring further advancement in a political hierarchy.

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When the Fifteenth Congress opened its first session on December 1, 1817, there were a few members still Federalist in name, but in name only. Mississippi was admitted to statehood December 10, 1817, a slave to offset a free State, Indiana, as Louisiana had offset Ohio. This practice indicated the quiet array of South against North. The Senate members were now 20 Northern to 18 Southern; in the House the figures were 104 to 79. With no opposition Congress repealed the internal taxes adopted as a war measure. But when Monroe recommended a protective tariff there was opposition, and as a compromise the existing one, very slightly protective, was continued, greatly to the disappointment of manufacturers in the North and the East. Furthermore, a proposal to use the federal dividends of the United States Bank in place of appropriations was thwarted by strict constructionists, as too was a resolution to recognize the independence of the South American Republics, introduced by Henry Clay. Congress adjourned April 20, 1818.

The American world was interested. Here was a Democratic-Republican leader urging all sorts of nationalizing, loose-construction measures: a share of international affairs as one of the family of nations; internal improvements at federal expense; protection; and the increase of army and navy. Clay's following was partly personal, for he was a heroic personage; but it was mainly composed of men with decided loose-construction ideas. His was a rising planet; but in opposition was another, Andrew Jackson, a rough son of the soil, a stern soldier who had saved the military pride of the people by conquering Wellington's veterans at New Orleans. There had been Indian troubles in Georgia which he had ended

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with a high hand. Then in Florida two British subjects had arrayed the Seminoles and aroused them to rebellion. With this menace to American prestige Jackson dealt ruthlessly, and hung the two white leaders. With no aristocratic feeling nor dynastic leanings, the masses adored him. The second session of Congress, November 16, 1818, to March 3, 1819, first admitted Illinois as a State (December 3, 1818) and then took up for consideration a majority report of its committee on the Seminole War, censuring Jackson for unwarranted procedure, especially in the execution of foreigners. There was a minority report commending him. The former was rejected by the House and tabled in the Senate; neither was adopted. The language of the newspapers on both sides of the question showed by its violence the intensity of public feeling. On February 22, 1819, the treaty was signed purchasing both Floridas from Spain for five millions of dollars in cash, together with that piece of the vast Louisiana Territory later known as Texas and two years afterward incorporated in Mexico. With this and some explanation to Great Britain the whole matter was momentarily dropped, but Jackson's star was in the ascendant.

Another matter of the first importance was brought up at this session. The inhabitants of Missouri, a great territory carved from Louisiana and therefore not under the ordinance of 1787, petitioned for statehood with slavery. When the permissive bill was introduced in the House an amendment was promptly offered forbidding slavery. There was furious debate, and the great question was opened. Jefferson said he was startled as if by a fire-bell at night, but others were not. There was slavery in

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all the colonies; British subjects at home grew rich in the slave traffic, and the highest British courts legalized the institution. It had been abolished north of the line run by two surveyors, Mason and Dixon, between Maryland and Pennsylvania, partly from sentiment, partly because it was not profitable. It was retained south of that line, rather by inertia, until it suddenly became very profitable when Eli Whitney invented the cotton-gin, making that staple the king crop of the South. For generations the great proprietors had felt that it had added to their social importance and state, that they were Christianizing and partly civilizing a lot of gentle savages; but now they were keenly aware of their economic dependence on black labor. So had begun the offset plan, the admission of one new slave and one new free State in pairs. This worked until the enormous migration into the Louisiana purchase began and threatened the equipoise. The North could not endure the thought of expanding an obnoxious system to the extinction of its own equality in federal government. Hence the kindling of the fire. In the opening of the struggle a few Northern Senators voted with those from the South. John Randolph stigmatized them as "dough-faces," a name long used for Northern men with Southern convictions. These men equalized the Upper House; there was a free-State majority in the Lower.

When the Sixteenth Congress met in its first session (December 6, 1819–May 15, 1820) Clay was elected Speaker, and (December 14th) Alabama was made a State. A high-tariff bill passed the House, but was rejected by the Senate, the opponents taking a position held by many ever since, that duties could be laid for revenue only, to pay the current expenses

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and the debts of the federal government. Thereafter for two generations the alignment between the two parties was largely along this question. There were no absolute free-traders desirous of raising the necessary revenue by direct internal taxation. One side declared that the use of customs dues to protect manufacturers against foreign competition was a usurpation of power neither granted by the States nor implied in the Constitution. The other side retorted that a home market thus created would secure higher prices for all agricultural products, and so improve the whole country in all its occupations. There were three antagonisms now visible: North *versus* South, low tariff for revenue *versus* high tariff for protection, slave labor *versus* free. The moral sense of the North and of many in the South was engaged against slavery as an abominable tyranny; otherwise it was one simple question, the divergent interests of agriculture and industry, and so of section against section.

The Senate in this session first tried that device of legislation since known as a "rider," combining in one bill the admission of Maine and Missouri in order to insure the success of the latter. The patent piece of chicanery would not work, and there was a deadlock. By a notorious compromise originating with Clay, the former was finally admitted as free, the latter as slave, with the understanding that thereafter the latitude 36° 30' would be the dividing-line between free and slave States across the possessions of the Union. Many, including influential Southern men like Randolph, thought it a "dirty bargain." Such, however, was the general satisfaction that there was no question of caucus nomination for the coming election; every one knew that every

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State would choose electors to vote for Monroe and Tompkins. Such was the case, and when after the summer the second session began (November 13, 1820–March 3, 1821), the House proved to be loose-construction as before. Clay refused the speakership, but a successor, Taylor, of New York, holding his views, was elected. This seemed to exasperate the Southern members, and they discussed the possible dismemberment of the Union. This talk meant no more then than before, nor than it has meant since on every occasion everywhere; of course, with the one great exception. Missouri's constitution debarred free negroes from her soil; free negroes were citizens in some States. The majority refused to accept the provision. This led to two other compromises. Missouri was never to legislate against the citizens of other States, and though she assented on August 19, yet in the uncertainty of her position the total electoral vote was to be counted both with and without the three votes of Missouri. The result was the same in either case. Monroe and Tompkins were inaugurated a second time.

This second administration was almost without significance. It was called the Era of Good Feeling. In both sessions of the Seventeenth Congress (December 3, 1821–May 8, 1822; December 2, 1822–March 3, 1823), as well as in those of the Eighteenth (December 1, 1823–May 27, 1824; December 6, 1824–March 3, 1825), the measures absolutely essential to the needs and conduct of government were passed with substantial unanimity, and good nature prevailed in all personal and most political relations. In party matters nothing decisive came from mild discussion of measures already familiar—internal improvements and tariff—except that a revision of the latter, known

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as the tariff of 1824, was really and openly protective, and passed both Houses by small majorities. An effort to revive the caucus system fizzled out, but it put into the field a third ticket, and that was followed by a fourth. The recognized candidates for the presidency, not one of whom was regularly nominated, were Clay, Adams, Crawford, and Andrew Jackson; Calhoun was the only one mentioned for the vice-presidency. When the votes were counted for President, Jackson had 99, Adams 84, Crawford 41, Clay 37; for Vice-President there were 182 for Calhoun and 78 scattering. The election of Calhoun was declared; and thereupon the friends of Clay in the House, their candidate being fourth choice only and so ineligible, united with those of Adams and elected him. Thirteen States voted for Adams, seven for Jackson, and four for Crawford. Adams and Calhoun were duly inaugurated.

What were all these new and self-styled "sovereign States"? Creatures of the original thirteen. Yet they were considered by themselves and others on an absolute parity of sovereignty—a vague and portentous word—and possessed, in fact, what they freely exercised: by far the largest portion of control over life, liberty, and all social relations. Where was their federal will expressed? Some thought one thing, others another; but it certainly was not expressed in the executive. In general esteem the House counted as most nearly expressing the popular will. So far, therefore, the President had used the veto power on the rarest occasions: Washington twice, Jefferson and Adams not at all, Madison a few times, and now Monroe once; in his second term he followed Madison's example and vetoed with apologies a loose-construction measure. This must

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be noted because it was seed in the womb of a near future.

Again, during the uneventful epoch, another democratic impulse was gathering force. Adams was Secretary of State, and apparently no tradition was broken when he was elected to the presidency; but it was a fluke in what is familiarly known as a "scrub race" for that office. Jackson, the favorite, was a private citizen. The whole wretched election was a personal squabble. This could not last, and some device must be formed to prevent the repetition of such a disgrace. Men began to grope for it, and eventually it was found. The beginning of this momentous process and change was in the Monroe administration.

Further, it was Monroe who protested that he must veto loose-construction measures—though he recommended the amendment of the Constitution to permit internal improvements at federal expense—and freed the forces which have compacted the United States into a highly centralized nation by the enunciation of the seemingly harmless Monroe doctrine. Never completely formulated, it is yet a sacred, settled rule of our foreign policy. Apropos of Spain's attempt to reduce her rebellious colonies to submission, he gently stated that we would not interfere in Europe, but that nobody must interfere in America to acquire control. This was the mustard-seed really planted by the subtle suggestion of Great Britain, which has since grown into a great tree, and bids fair to make an immortality for the unconscious husbandman, a rather mediocre man at best. Though never a party measure, it has been the arsenal of the loose-constructionists.

XVI

NEW DEVICES

1825-1829

Fusion of groups into parties in spite of divergent interests: Republicans—Creation of a unitary opposition for lack of leaders and by pressure—Democratic personalities degrade politics—Deadlock of legislation—Democrats in power—The Tariff Bill of 1828 protective—Irregular nominations for presidency—Disappearance of Congress caucus—Jackson's election; popular uprising—Consequences of the peaceful upheaval: the extension of suffrage one cause—Increase of population—Tenure of and rotation in office—Party as a unifying force.

THE record of John Quincy Adams's administration is dry and dreary as far as Congress is concerned. But this fact is significant: it was the inaction preceding a political storm. The two factions of loose-constructionists had made some sort of an arrangement and presented a united front with Adams as President and Clay as Secretary of State, apparently and by tradition in training for the presidency. The two factions in opposition, one under Crawford, already an invalid, and the other under Jackson, a man of destiny, were thus forced together and charged that the coalition between the opposing groups was a corrupt bargain. They made out a poor case, but put Clay on the defensive. This cemented the new party more firmly than ever, and they adopted the name National Republican and were heirs to the Federalists. Adams announced two newer policies in his message: protection, and a great general scheme of internal improvement at federal expense; roads and canals in order to tie all

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parts of the ever-expanding Union into a single whole, as far as might be, by easier transportation and swifter communication.

As early as October, 1825, the legislature of Tennessee nominated Jackson as a candidate for President in 1828, and he acquiesced in the candidacy. Far and near there appeared groups of Jackson men—sturdy, uncompromising democrats; but, like their leader, with a leaning toward protection which the Crawford rump of Southern men had not, their foible being State rights. Because of Crawford's illness, and under the general pressure of loose construction, his followers gradually joined the Jackson ranks until the movement in opposition to the National Republicans became national likewise. The organization took the name of Democrats; and, probably to avoid confusion, the other party gradually assumed or had given to them the name of Whigs. The Democrats were in no sense Jeffersonian; they not merely held, they practised strict construction; but the principle being identical, they managed to secure the succession. Their extreme Crawford wing was likewise irreconcilable in the matter of State rights, was very Southern in feeling, and advocated low tariffs. Under their influence Georgia threatened armed resistance to the federal government in adjusting its struggle with the Cherokee Indians.

In the first session of the Nineteenth Congress (December 5, 1825–May 22, 1826) the Republicans elected their Speaker by the narrow majority of 99 to 94, a frail support for a feeble administration. Their majority in the Senate was larger, but Vice-President Calhoun, as presiding officer, packed the committees with Jackson men having a leaning to the new doctrines of the Democrats, and so rendered the Repub-

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lican Senators helpless. The business session was perforce trifling, and administration measures as such received little consideration, though a few were passed. There were weary, heated debates on the Adams-Clay combination as corrupt; there was also a futile effort to diminish the President's powers; the power to appoint Senate committees was taken away from the Vice-President; there was a long discussion of Adams's appointment of delegates to a Congress of American Republics at Panama. The appropriations for internal improvements were increased. The presidential election had so stirred up personal animosities that they could not be laid; both parties spent the summer in scouring the country for adherents, in consolidating sentiment, and in shaping new policies. They had no success in eliminating personal bitterness; on the contrary, it rather increased.

With this virus in their veins the members of Congress reassembled in its second session (December 4, 1826-March 3, 1827) and went right on with party strife. A higher tariff bill was passed in the House, but defeated in the Senate by Calhoun's casting vote. The Democrats offered bills to distribute federal revenue among the States and to repay fines which had been exacted under the Sedition Act; both failed in passage, but they served to display the new banner. So poor was the esteem in which the administration was held by its supporters that only the New England States, with Delaware, New Jersey, Ohio, Indiana, and Louisiana chose Republicans for the new Congress; all others sent Democratic delegates. This was interpreted as the people's veto on a general plan of internal improvement; all legislation thereafter which appropriated money for the purpose was special.

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The scheme would, of course, have been revived at a later date but for the advent of railroads, which were built either by private enterprise or by the interest of the respective States.

The Democrats, divided from the outset on the question of tariffs, were still further separated by the Convention of Protectionists held at Harrisburg, Pennsylvania, on July 30, 1827, which many of the Northern members of the party attended, and where some distinguished themselves by enthusiasm for the cause. This opened the cleft wide by its exhibition of the manifest divergence of sectional interests in consequence of growing commerce and manufactures in the States north of Maryland and even in those on the border line. The first session of the Twentieth Congress lasted from December 3, 1827, to May 26, 1828. There was a Democratic majority in both Houses. Much time was occupied by long and lively political debates on the question of appropriating money for a painting of Jackson at the battle of New Orleans, and the counter proposition of an inquiry into his conduct in having six insubordinate militiamen executed. The only important legislation was the Tariff Bill of 1828, a measure avowedly and actually protective in a still higher degree. The South was exasperated, and began to talk nullification—always a relief to wounded political feelings in the United States. Partly by general consent, partly by nominations made in several State legislatures, the recognized nominees for the presidential election were: Jackson and Calhoun, Adams and Rush. Congressional caucuses were unnecessary, and, since the Crawford fiasco, ridiculous as well as obnoxious. The people would not endure the dictation of their own representatives.

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What was coming became speedily manifest—*viz.*, a general popular uprising against all the indirect and aristocratic features of government, both those provided in the Constitution and those which had been created by a ruling class. The day of the Virginia dynasty was over. The second session of the Twentieth Congress sat from December 1, 1828, to March 3, 1829. The elections had been overwhelmingly in favor of the Democrats. What politics could there be in Congress? Adams made an earnest plea for protection in his message, and in a sort of desperation the expiring Republican majority voted hitherto unheard-of sums for different internal improvements. The electoral votes were counted: Jackson had 178 for President, Calhoun 171 for Vice-President; Adams and Rush had each 83. This was success for the South in its two candidates; those defeated were from Massachusetts and Pennsylvania respectively. The now usual inauguration ceremony of taking the oath of office in public before the Chief Justice took place on March 4th. Convulsions and revolutions are generally accompanied by storms, and the whole public agitation had been stormy, though the result had been clear for months, even years. The tumult was due to uncertainty as to exactly how that which the people had gained could be used for their advantage.

This was to be determined, as every event is, by the causes which produced it; these causes had been slow and steady in their evolution. It was really the extension of the suffrage which made Jackson President. Seven States—Ohio, Indiana, Illinois, Mississippi, Alabama, Maine, and Missouri—entered the Union with either expressed or tacit provisions for manhood suffrage. The new common-

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wealths had been largely explored and settled by native-born Americans; in their primitive societies there could be no question of any property or other limitation on their full share in self-government. The system worked well, and under the reflex influence of example and family correspondence the original States were forced to imitation—Maryland in 1810, Connecticut in 1818, New York in 1821. Massachusetts in 1822 abolished property qualifications for the exercise of the franchise, though the opinion still generally prevailed that the suffrage was a grant, not an inherent right. In Virginia the old order made a stand. Madison, with Monroe and Marshall, succeeded in extending the freehold qualification for thirty years, down to 1850, in spite of the strong sentiment against it.

In forty years the population of the United States had increased, by natural generation in the main, although to some extent by immigration, from four to thirteen millions—a rate never since exceeded, and barely equaled even in periods of immigration comparable to the migrations which overwhelmed Rome. The population which elected Jackson was a homogeneous American population. These were the people who overthrew every existing relation between the different branches of the federal government, also between themselves and their elected representatives. Hitherto the Lower House had been closer to the people than any other organ of government; its members were chosen at short intervals, felt the popular mandate immediately behind them, debated with serious dignity, voted with a sense of responsibility; for these reasons men of force and power had sought election. Webster, Calhoun, and Clay, though the most eminent, were not entirely excep-

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tional men in the membership of the House. Jackson's election was considered to make the Executive the most direct representative of the whole people; the vote of the electors registered approximately the will of the majority in every section. A President so chosen and a man so constituted as "Old Hickory" was sure to keep this conviction of his country in mind and behave accordingly.

Reference has been made to the struggles between Madison and Clinton for ascendancy and the consequent offsetting of local by federal patronage, which resulted in the appointment of active political workers—in other words, party workers—to all the offices, and slight consideration for those of a defeated party who occupied them. Tenure of office depended on party success. Office-holders made party politics their business and became almost a class by themselves, dependent on success for daily bread. In short, what is still known as the party machine in all its parts was assembled in New York, and the example had been more or less perfectly followed in other States. The use of patronage in this way was no novelty, but the British idea of office as a personal possession, a reward for services that had been rendered, had acted as a check on its abuse; this notion was now supplemented by another quite different, that of office as a grant to successful candidates for services still to be rendered, to use the phrase of feudalism, as a benefice in place of an allodium. The notion that the great officers of administration should resign on the defeat of their party was to be supplanted by its reverse: that every official, great and petty, should make way for the men who had changed the political complexion of the country.

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Another conception as to office-holding was that of rotation: to every fit man his share of honor and profit from the public service. This sprang in part from a dread of bureaucracy. Italian commonwealths chose their officers from the citizens by lot or expressed the desire to do so; the writers of Utopias set forth the benefits of rotation: Harrington in his *Oceana*, Burgh in his *Political Disquisitions*, and both were followed by their disciples, Adams and Jefferson. Under Monroe the commissions for many important positions were limited to four years, at the end of which time it was expected the holders would make way for others. The conception was not generally acceptable, for it implied a certain security of tenure for the unfit, and it showed no respect for the earlier one of office as property. Still it was no longer abhorrent, and might easily be accepted if regarded as virtually inevitable.

The transformation of the whole device for securing a Utopian President, a man who should be a sage far removed from strife and unworthy influence, was already well under way. Every elector must vote for President and Vice-President separately, and already these selected freemen dared not thwart the will of the imperious people, but must vote for the candidate understood to be that of his party. The fact that in the Jackson election votes were cast in the electoral college for a man not in the running is the kind of exception which proves the rule. But as yet each State chose its electors in its own way. Though there were many ways, nearly all unsatisfactory, still every State was impelled to commit the choice to popular vote, and by 1824 this was the general method. The same was true of Senators and Congressmen; uniformity was desired. There

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was an ever firmer conviction that what party won party must enjoy, that what was gained in one place must not be lost in another. The House had listened patiently to presidential suggestions for amendment of the Constitution in order to make legal manifestly desirable legislation, and just as often it had not heeded but had arrogated the needed power. Should Congress assume administrative control, as seemed possible, its membership must be safeguarded by a uniform method of choice throughout the Union. It came to pass, therefore, that party pressure without regard to party dogma was exercised to this end, and the greatest single unifying force at work was party interest and the steady increase of party organization.

XVII

PARTY ORGANIZATION

1829-1833

Use of political patronage for party purposes—The new parties; Clay and Jackson—The Nullifiers—The "Great Debate." The pocket veto—Jackson's defiance to nullification—His aversion to the United States Bank—Party conventions—The tariff of 1833 quieted nullification—Significance of new nominating method—The office of President representative.

POPULAR because honest, Jackson's first administration was strong indeed. Of all the processes enumerated not one continued without grinding friction, such were the animosities of ambitious men and such the confusion due to lack of institutions for expressing the popular will in extra-legal concerns of vital importance. With no hesitancy Jackson began to exercise his undoubted right of removal from office. Though there is evidence that he left more persons in office who were opposed to him than he removed, yet so far did he outrun all tradition and practice in the matter that even yet he is considered to have made a clean sweep, appointing to about seven hundred places, great and petty, on the principle of rotation and of office as a party fund, men who were his firm supporters. It was an effort to fortify himself against the thronging troubles now arraying themselves in fierce opposition. For long no victorious party hesitated to follow the example. Marcy, of New York, gave form to the doctrine: "The spoils of the enemy belong to the victor."

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Every party change saw wider sweep to the practice, and it has been checked by reforms enacted into law only in our own time, when its abuse had seriously crippled the public service.

The first menace appeared in the readjustment of parties. Freemasonry was then a much more serious affair than now; a book purporting to expose its darkest mysteries was extensively advertised and sold in the western counties of New York. The author disappeared, never to be seen again, supposedly murdered. It was charged that members of the order used influences to prevent thorough investigation. As discussion spread, opposition to Masonry became a political question, and there was easily formed, mainly from the Republican ranks, a substantial party opposed to Clay as a Mason, to Jackson both as a Mason and a Democrat. The Anti-Mason party could have no real cohesion, yet it became strong enough to nominate a presidential ticket in 1831 and greatly weaken Jackson's numerical support; it then disintegrated. Clay had secured the unquestioned leadership of what many liked to style Jeffersonian Republicans, upholding his doctrine of checks and balances by the separation of powers; and he continually weakened the Democratic ranks by winning over protectionists. The overwhelming majority of Jackson, however, gave the Democrats a prescriptive right to Jefferson's name, and they "captured the organization" with the permanent use of the name Jeffersonian. Yet they, too, were composed of most discordant elements, turbulent, excitable, headstrong. Besides, there was the Maine boundary question to be settled with Great Britain, and also claims for spoliation from France. Intestine and external war threatened.

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Foreign troubles, though arranged only after a menace of war with both nations, caused little trouble compared with internal. Clay had a magnetic personality, and his charm made the cohesion of the Republicans comparatively easy, so quickly could he allay strife by his caressing ways. Jackson was a bluff soldier, strong only in his simple, honest, straightforward methods. Many of his ardent supporters did not hold one of his principles when voting. As he veered more and more away from protection, internal improvements, and the United States Bank, toward strict construction, they found it hard to follow. Moreover, the Crawford men never were enthusiastic, and looked more and more for guidance to Calhoun. This extreme Southern group were aristocratic and undaunted in their State-rights doctrine. Undismayed by their experiences with the Virginia and Kentucky Resolutions of 1798, by the equal indifference of other sections to the nullification standard raised by Kentucky in 1799—*viz.*, the right of any State to declare any act of Congress null and void if in its judgment unconstitutional—the legislatures of South Carolina and Georgia had declared the Tariff Act of 1828 so to be. For this “colossal heresy” of nullification, as Madison styled it, the name of Jefferson was falsely claimed as sponsor.

In the first session of the Twenty-first Congress (December 7, 1829–May 31, 1830) the Democrats elected the Speaker by a majority of 152 to 39. The message made no mention of the tariff, but it recommended the direct election of the Executive, the distribution of surplus revenue among the States, and an inquiry into the constitutionality of the Bank, although its charter had yet five years to run. These

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matters were referred to the respective committees of Congress, and all were adversely reported. Jackson's supporters were very uneasy. In the Senate a seemingly innocent resolution limiting the sales of public lands was fixed upon to secure occasion for what is known as the "Great Debate"; it lasted five months, absorbed the attention of the House and of the country, and was in reality a political reconnaissance. During its course nullification as a principle was formally announced by Hayne, of South Carolina; Daniel Webster, of New Hampshire, was his antagonist. A bill to buy the Cherokee lands in Georgia was passed, but the Cherokees would neither sell nor emigrate; the State was to take matters into its own hands and defy the federal government—another application of nullification. Bills enabling the government to take stock in private corporations were vetoed by the President in a novel way. Having by law ten days for consideration, and the date for adjournment falling within that time, he held them, as it were, in his pocket without his signature. This is known as the pocket veto.

On April 13, 1830, a great public dinner was given in honor of Jefferson's birthday, and the subjects for speakers had all been carefully arranged in order to show the trend of the South toward nullification. This was a challenge, for the President had said in conversation with a South Carolina nullifier that should they shed one drop of blood in opposition to the laws of the United States he would hang the first man he could lay his hand on or the first two he could reach. There occurred in consequence a very significant encounter. Jackson rose in his place and administered a rebuke by proposing the toast: "Our federal Union, it must be preserved." Calhoun

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retorted with the defiant sentiment: "Liberty dearer than the Union." This was, of course, the open declaration of a breach, and Calhoun determined to make it irreparable by an attack in the autumn on Jackson's conduct of the Seminole War. The second session of the Twenty-first Congress lasted from December 6, 1830, to March 3, 1831. The President's message attacked the Bank and took the ground that appropriations for internal improvement were legal only for such as benefit the whole country. In the face of this, Congress passed the first Harbor Bill, for the improvement of harbors, by such majorities that the President bowed and signed it, as also later similar bills for roads, rivers, and the establishment of a lighthouse system. Much time was consumed in an impeachment trial having no bearing on parties or politics. Then in March Calhoun published his attack on Jackson. There had long been trouble in the Cabinet, partly because of social jealousy between families of its members, and partly because as a whole it did not enjoy Jackson's confidence; from the entire body he selected Van Buren, Secretary of State, and a little knot of personal friends as advisers. Van Buren now resigned voluntarily, and the other members by request, so that the President might at least form an advisory body united in his support. The battle with the nullifiers was joined.

When the Twenty-second Congress met (first session December 5, 1831-July 16, 1832) it was found that the Senate was Republican, the House still Democratic, but by a majority of only one. The message again attacked the Bank, and in such terms that its friends determined to apply immediately to Congress for a renewal of the charter. The bill passed

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both Houses, was of course vetoed, but failed to secure the two-thirds vote necessary to make it law without the President's signature. This fact so embittered the majority that when the nomination of Van Buren as minister to Great Britain came up for approval in the Senate the members arranged for a tie vote, 23-23, in order that Calhoun, as presiding officer, might administer a studied insult by throwing the casting vote in the negative. This piece of unmannerly spite was in the end of great advantage to Van Buren's career. Two bills for internal improvements were passed; Jackson signed one and vetoed the other. Finally the tariff of 1832 was made law; without abandoning the principle of protection it made a general reduction of duties. This, of course, satisfied neither party nor the country at large.

Three party conventions were held during this Congressional year: that of the Anti-Masons, nominating Wirt and Ellmaker as a presidential ticket; that of the Republicans, the name of Whig being already in use, naming Clay and Sergeant; and that of the Democrats nominating Jackson and Van Buren. The Anti-Masons needed no statement of principle. The Whigs arraigned the administration for its general course, and in particular for its treatment of the Cherokee Indian case; they announced themselves as favoring internal improvements, protection, and a National Bank. The Democrats stood on the record of the administration. In November South Carolina obstinately repulsed all these suggestions and chose electors who voted for Floyd and Lee; Vermont chose Anti-Mason electors; six States voted for Clay and Sergeant; all the rest for Jackson and Van Buren. The popular vote for Jackson

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was smaller than before, and the general state of the South was ominous because its leaders had lost their hold on the people, the majority of whom accepted protection as a thing settled and disliked the talk about nullification. This in particular was becoming serious because Georgia had really nullified in the Cherokee case both an act of Congress and a decision of the Supreme Court, while on November 19, 1832, the State convention of South Carolina declared the tariffs of 1828 and 1832 not binding. The legislature thereupon adopted measures preparatory for war; but Jackson made short work with rebellion, occupying Charleston harbor with a naval force and giving the revenue officers armed protection. Calhoun resigned the vice-presidency, was elected Senator from South Carolina, and declared from his place in the Senate chamber that his State had never intended forcible resistance.

This was just after the opening of the second session of the Twenty-second Congress (December 3, 1832–March 3, 1833), and immediately it passed a bill for enforcing the tariff, styled by the extreme State-rights men the Bloody Bill, which was denounced with fury. But there was no further attempt at nullification. Accordingly Clay introduced a compromise measure, and the tariff of 1833 provided for a gradual reduction of all duties until 1842, after which date the rate should be twenty per cent. His opponents chose to consider this as a victory for them, and all excitement was quickly allayed. The new alignment of parties was now virtually complete. The Whigs were a coalition of Adams-Clay men, of Anti-Masons, conservatives, and nullifiers. The Democrats were strict-construction, but their ranks contained many radicals. Both claimed to

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be Jeffersonian—the Republicans by name and by advocating the division of powers with careful checks and balances; the Democrats because they held the principle, had captured the organization, and were the lineal descendants. The message expressed doubt of the Bank's solvency, recommended the sale of its stock held by the United States, and the withdrawal of deposits. These measures were, of course, defeated. Clay proposed the loan to the States of money obtained by sale of public lands, and his measure was lost by the use of the pocket veto. The count of electoral votes showed that of the total number, 286, Jackson had 219 for President, and Van Buren 189 for Vice-President. They were duly inaugurated.

The revolution indicated by Jackson's election was, of course, far from complete as yet, and his second administration was to be as tempestuous as the first. But some definite results had been hardened into institutions. The spontaneous and simultaneous arrangements for party conventions were evidence of two facts: the parties, new as they were, felt strong enough to deprive caucuses of Congressmen, State legislatures, and family juntas of the important part they had played by arrogating to themselves the nomination of presidential candidates; secondly, that the electoral system, though not perfectly, yet almost completely registered the results of the popular vote. The conventions were speedily and carefully organized so as to represent every portion of all parties, and until very lately seemed a permanent institution of American government; so much so that within a short time they have in some places been put under control as legal persons.

Whether or not Jackson was fully conscious that

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he was what he claimed to be—the immediate representative of the people—and that his successors in the presidency would continue so to be, his conduct did not belie his professions. He felt democratic all through; to him the Bank was aristocratic; the virus of Hamilton's attitude in financial matters must be expelled from the body politic. Through him the people might exercise their veto on measures benefiting but one class, and he was fearless in the use of the "negative" in legislation as no non-representative man, president or king, would dare to be. Then, too, he dared in that capacity to attack the House of Representatives and diminish its representative prestige. Not once, but again and again, he forced its hand in the matter of the Bank, aiming at a directive power in legislation and administration, possible only to one who felt himself to be the tribune of the people.

XVIII

THE REPRESENTATIVE PRESIDENCY

1833-1837

Jackson's victory in regard to the Bank—The Senate's vote of censure—Appearance of the Sub-Treasury plan—Loan of surplus revenue to States—Specie circular and political effect—The Texas question—The anti-slavery movement—Jackson's attitude—Revolution in the presidency—Democracy in America and England.

HAVING asserted himself as the people's representative during his first administration, Jackson felt that his second election was their stamp of approval upon the way in which he had represented them. With unexpected audacity he now determined upon another step in the same path, and arranged to withdraw the federal deposits from the Bank of the United States. The resolution met with reprobation from the Secretary of the Treasury, McLane, who, under the law, must perform the act, and his resignation was sought and accepted. The President then appointed Duane, who was likewise recalcitrant, but would not resign. He was accordingly removed and Taney appointed, but without sending his name for confirmation to the Senate, which in the exercise of that constitutional right had virtually arrogated to itself the power of appointment. The matter had been spread before the Cabinet. The Secretary of the Treasury, not Congress, had control of deposits; they should not be in a bank whose charter would soon expire, which had exhibited its inability

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to pay all depositors by seeking an extension of time from foreign creditors, whose directors had used its funds for political purposes and had kept secret its operations even from their four colleagues who represented the government. Duane had stigmatized the proposed course as "unwise, vindictive, arbitrary, unjust"; Taney acted without hesitancy; there was really very little deposit to withdraw, but that, with cash in hand, was distributed as federal deposits among several State institutions known as the "pet banks." The United States Bank had to call its loans, and a sort of "panic" ensued; but when the commercial distress was relieved the President felt that he had proved by its very existence that such a bank might seriously hamper administration and that his course was justified.

The first session of the Twenty-third Congress (December 2, 1833-June 30, 1834) had a Whig majority in the Senate and a Democratic one in the House—142-61. The former name was now fixed, having been so used in New York as to make its fitness for its purpose evident; another designation used at the same time, that of Loco-foco, for the Democrats, lasted a short period in fairly general use, but disappeared. Jackson had secured his end; Taney's nomination was withheld from the Senate until a week or ten days before the close of the session, his title to his place in the interim was clear, and he had done his work. The message defended the course taken, and Clay immediately introduced to the Senate resolutions denouncing the President; as finally passed, after three months' debate, they took the form of a censure declaring the executive action to have been an assumption of authority and power not conferred by the Constitution and the laws, and

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in derogation of both, and the reasons given to have been unsatisfactory and insufficient. Such language stung, and the President retorted that he had been indicted, tried, and sentenced for perjury and the violation of his oath without being heard. The censure stood on the minutes, but Jackson's reply gave him the real victory. A House committee had investigated the Bank; its majority report was unfavorable, and the House voted against recharter and restoration of deposits, tabling the Senate resolution of censure. It also investigated the post-office and secured the passage of a bill for a reform of management in that department. The Senate refused to confirm any of Jackson's nominations.

The second session of the Twenty-third Congress (December 1, 1834-March 3, 1835) was memorable for the introduction by Whigs and rejection by Democrats of a measure afterward enacted into law by the latter, so far-reaching that it finally ended the agitation for a national bank. It was really a strict-construction measure—the Sub-Treasury plan—now in successful operation, providing that, wherever needed, agents of the Treasury should be appointed to receive and disburse the revenues of the United States and give heavy bonds for the performance of their duties. The legislation of the session was confined to passing many bills appropriating money for internal improvement. Distant as the coming presidential election still was, the strength of the Democratic party combined with the now fixed tradition of two terms as the limit so stimulated ambition to be early in the field that Hugh L. White, a rather independent personality in Jackson's own State, had himself nominated by the legislature of Alabama for President and John Tyler for Vice-President, with

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slight concern for the recent institution of national party conventions. He was smartly chastised for his insurgency, for a general Democratic convention met, early as it was, at Baltimore, in May, 1835, and under Jackson's control nominated Van Buren and Richard M. Johnson. A number of Whig State conventions then named William H. Harrison and Francis Granger, and the party assent was so general that this sufficed to focus interest on them. The Ohio legislature named John McLean; that of Massachusetts nominated Daniel Webster. The public interest was rather languid, the election was so distant, the result a foregone conclusion.

The first session of the Twenty-fourth Congress (December 7, 1835-July 4, 1836) showed a Democratic majority of immense strength in the House, without, however, a large number inclined to support White. In the Senate the opposition began with a small majority which before the end dwindled away. James K. Polk was elected Speaker of the lower chamber, and the message was most important in a political way, for it announced the speedy extinction of the public debt. There would at once ensue in all probability a substantial surplus of revenue. This induced a long debate, at the close of which an act was passed requiring that after a reserve fund of five millions had accumulated in the Treasury the surplus should be distributed among the States as a loan which could be called only by Congress. Twenty-eight millions were actually distributed before events occurred which ended the process, and the loans were never called. It was so manifest that the nominations made in the preceding year were consonant with the political conditions that conventions were not held, and the

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campaign of the summer went forward without them. Arkansas became a State on June 15, 1836.

As a result of Jackson's victory in his struggle against rechartering the Bank of the United States, many State banks had secured charters and were reveling in the issue of notes. This paper was used in the purchase of the public lands to such an extent that the Treasury was glutted with it. Jackson took alarm, and under his direction the Secretary issued a specie circular instructing the government agents to accept only gold and silver. The resulting scramble for the precious metals caused the panic of 1837, a serious financial crisis. The antecedent anxiety was intense, and the presidential election showed a large proportionate increase of the Whig vote.

When the Twenty-fourth Congress assembled for the second session (December 5, 1836–March 3, 1837) both Houses were Democratic. On the motion of Senator Benton the censure of the President still standing on the record was solemnly expunged. There was an acute crisis in politics rapidly developing, due both to financial and social causes. Texas had, in 1819, been placed under Mexico's dominion by the votes of the South, which had now become very rueful as to the expansion of slavery, since the Missouri compromises had fixed a degree of latitude as the boundary-line between future slave and free States.¹ The enormous territory of Texas was so

¹ If Texas were a portion of the Louisiana purchase, as many Americans and some French believed in 1803, its cession as a partial payment for Florida was, under the terms of the treaty with France, impossible and null. But the conception of its having once been United States territory served to introduce the term "reannexation" into the political discussions antecedent to its final annexation.

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adapted to Southern agriculture that many settlers had crossed the border and, when established in numbers sufficiently strong, had declared the independence of the commonwealth. The Southern members of Congress were now eager to recognize that action as valid by a formal vote. The President strongly urged non-interference in Mexico's affairs, but nevertheless a favorable resolution was introduced and passed in the Senate; it failed in the House, but the question was a subject of much discussion and created intense feeling.

The slavery question was already becoming acute in a new form. Far and near throughout the North were groups of men who felt profoundly the shame and wickedness of negro slavery. Convinced that negroes were human, it was a violation of every right, human and divine, for one man or a body of men to deprive other men of their liberty, to disregard family ties, to administer brutal punishments, to treat them as the South felt them to be, mere chattels with no rights to be respected by white men. There were immense numbers of others who deplored the system, as did likewise very many Southern men, who saw and regretted its demoralizing effects on both masters and slaves, but who hoped for some system of gradual extinction which would not interfere with property rights or economic conditions. These last had no remedy to offer, and were opportunists content to wait. The others were radical and impatient for immediate abolition; in 1833 they founded the National Anti-Slavery Society for the propagation of their principles. Its members were known as abolitionists; between them and the Southern masters, equally determined to maintain and extend slavery as it existed, there could be no quarter.

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Of course there were many Northern men who sympathized from both conviction and interest with the radical Southerners, correspondingly detesting the radical abolitionists as wicked disturbers of the social order. Georgia indicted a leading abolitionist who had been agitating in the State, and made a formal requisition on New York to deliver him up for trial. Either singly or in groups, Southern planters in various places offered large rewards for the bodies, either alive or dead, of similar daring revolutionists. Many able-bodied, valuable, negro men and women escaped from bondage and were helped on their way across the Canada frontier by abolitionists on the line of their flight. The exasperation of the South was slowly developing into desperate frenzy, and those who felt with or for them were so active in the North that mob violence broke loose in Boston and many other places. Printing-presses were broken up, meetings dispersed, speakers pulled from the platform; and one murder, that of Lovejoy, was committed. Among other means to check the agitation was a petition to the House that abolitionists be forbidden the use of the mails. The abolitionists had already sent a similar paper demanding the abolition of slavery in the District of Columbia as a federal territory. Jackson, in his second message, asked for the closing of the mails, but Congress refused. Michigan became a State on January 26, 1837. For President, Van Buren had 170 votes from a total of 304, a majority; for Vice-President, Johnson had only 147, not a majority; but the Senate elected him, and both were duly inaugurated.

Jackson was the national embodiment of a very illusive reality, a state of mind known as democratic. It is hard to define because it exhibits it-

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self in manifold ways at different times, apparently inconsistent and contradictory. It attacks privilege and eminence of every sort, forbids the subordination of general advantage to class or personal, and keeps the road or door open for all ability according to its capacity. Yet it idolizes leadership, and Jackson's second election was the stamp of approval for his intentions and achievement. He made his office representative; in his messages he announced the popular will; his twelve vetoes were sledge-hammer blows on Congressional excess or arrogance; his thwarting the legislature to secure the general welfare was a delight to most Americans of the time. They were glad because he seemed to be their delegate, and not a representative in the old sense; a man commissioned to judge as well as act; they thought he acted as they would have acted. In him legislation and administration seemed directly to proceed from the popular will as it is at the moment, not from a rump out of sympathy with the advance of ideas. To him the people felt itself an open book.

There was a rising tide of democracy throughout the Anglo-Saxon world. The British Reform Bill of 1832 was contemporary with Jackson's administration. That has only this in common with his measures: it tended to secure the omnipotence of public opinion. American democracy found its means to this end in an elective president. The prestige and power of the office has been steadily increasing ever since, while that of Congress has diminished. British democracy was and is directly represented only in the House of Commons, now omnipotent except for social and historical checks. In this lies the great difference between parliamentary and congressional government. The pre-

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rogative of a hereditary monarch in England is now negligible, while the power of an elective one in America seems to many an enormity. The veto power in England has slipped from the hands of the Crown, except as the Crown is in commission to men chosen by popular vote; the veto in America has become commonplace and barely excites remark. Yet Jackson little knew what burdens he was laying on the nation. He left it financially so shaken that its only recourse was one he abhorred, and the office he transformed is without legal means to carry out its plans and meet its responsibilities. For the slavery question he was not responsible; for twenty-five years' dalliance with it he was.

XIX

THE CONVENTION SYSTEM

1837-1841

The political troubles of the panic—Van Buren steadfast—His strict-construction attitude—Final success—The conventions—Whig successes—Government and prosperity—Platforms a hated necessity—The Americans institutional—Good and evil in conventions.

WONDERFUL as was Jackson's work in reading the heart of a people continuously growing more democratic and imperious, more wonderful yet was his winning their confidence and expressing their wants to themselves by his own behavior. Van Buren did not possess these powers, but it is not likely that even Jackson could have behaved more discreetly or have acted so consistently with principle in the great crisis which now arose. Desiring, in the turgid phraseology of the time, "to follow in the footsteps of his illustrious predecessor," Van Buren accepted Jackson's Cabinet and Jackson's obligations. These were frightful, for the financial wind having been sown abroad, there was now a harvest of whirlwind to be reaped. With the glut of paper money consequent on the overthrow of a central banking system, and the chartering of countless feeble banks by the States, there was reckless speculation and an inflation of face values which was preposterous. The specie circular had resulted in wrecking many banks not favored with government deposits, and the incessant calls for the precious

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metals overturned many of the "pet banks," which had made loans of these deposits and were now obliged to recall them. There ensued a panic altogether unprecedented. The whole bubble of fictitious values and false credit burst on Van Buren's head. Every organized financial concern—banks, companies, firms, and individuals—fell before the storm; specie payments were suspended, and the whole country was stunned.

Amid this whirlwind Van Buren kept his equilibrium. He called an extra session of the Twenty-fifth Congress for September 4, 1839, and it sat until October 16th. His message recommended no interference with the panic, terrible as was the devastation in so-called prosperity which it was working, and set forth the imperative urgency of adopting the Independent or Sub-Treasury plan. There had been some rearrangement of political groups already, most of the nullifiers, or Calhoun Democrats, having rejoined their party. In the blind confidence that any change was better than none, many Democrats now joined the Whigs, and one group, the "Conservatives," were ready to vote with them as occasion served their purpose; they really believed in the benefits of a national banking system. So a bill to establish the Independent Treasury passed in the Senate, but was defeated in the House by a coalition opposed to the administration and secretly expecting the triumph of an effort to recharter the Bank of the United States. The President, undismayed, prevented any substantive relief measures, and all that was done was to legislate for no further distribution of revenue among the States, for the issue on the strength of such increased federal credit of ten million dollars in Treasury notes for

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circulation and for the extension of the time for merchants to pay the interest on their revenue bonds.

Returning with obstinacy to his purpose, the President's message to the first session of the Twenty-fifth Congress (December 4, 1837-July 9, 1838) renewed his urgency for the passage of an act establishing an Independent Treasury. Again it passed the Senate, and again, by the same coalition, it was defeated in the House. Both Houses, however, by joint resolution annulled the specie circular, instructing collectors of revenue to accept the paper of solvent banks. The question of Texas reappeared, but an attempt to annex it to the United States failed. The second session of the Twenty-fifth Congress (December 3, 1838-March 3, 1839) was mostly consumed in talk: discussion mainly of the little Seminole War, for which great sums had been appropriated to no apparent advantage, for it was still dragging on as for years past with no substantial gains or visible successes. The end was not in sight, and some little political capital could be gained from the exhibit of the failure. No effort was made to relieve the continuing financial distress, and this stern adherence to strict-construction principle drew so many voters into opposition that already there was a prospect of the Democrats losing control.

When the Twenty-sixth Congress assembled for its first session (December 2, 1839-July 21, 1840), the question of a majority in the House turned on a disputed election of congressmen in New Jersey, which then chose its five members by general ticket. The Whig candidates presented themselves with commissions under the broad seal of the State, and the contest of the Democratic five was based on the

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claim of miscount in one county. The division of opinion among members of Congress was so even that for three days no organization could be effected, and there were wild scenes of disorder. The struggle ended finally by the choice of John Quincy Adams as a temporary chairman. For two weeks both New Jersey delegations voted now and then on various questions, and it was two weeks before a Democratic Speaker was regularly chosen by unquestioned votes. Eventually, in March, the Democratic petitioners were seated, and what was called the Broad Seal War came to an end; even then there was a majority of only four for the administration. So much time had thus been lost, and members were so exhausted, that little work was done. But the President did finally succeed in forcing the passage of his Independent Treasury measure. True to his party principle, he also prevented the passage of any bills appropriating funds for internal improvement, and so thorough was the disapproval that all road and canal machinery or tools were ordered sold at public auction.

The political situation called for united, harmonious party action by both Democrats and Whigs. The Liberty party, moreover, determined to organize. It was necessary, therefore, to hold conventions, though many on both sides, especially of the Whigs, had a distaste for such extra-legal methods of indirect election. Yet they were called, and thus was inaugurated a virtually unbroken succession of such assemblies in presidential years. The Whigs met at Harrisburg, Pennsylvania, on December 4, 1839. Their only chance for unity was to drop Clay; so they nominated a plain frontiersman already eminent for rugged virtue, William Henry Harrison, of

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Indiana, for President, and for Vice-President John Tyler, of Virginia. The former was an out-and-out Whig, the latter a Calhoun Democrat who had never supported the administration. This was a strong combination in a purely political way, for there were many undecided voters like Tyler, extreme Southern men; and it would not be possible to find any one more Jackson-like in social attitude than Harrison. A compromising convention of such heterogeneous character simply could not issue a general statement of principle on which all opposed to the regular Democrats could agree; and no effort was made to do so. The Democratic national convention met at Baltimore on May 5, 1840, and issued a stirring declaration of strict-construction principles: no power in Congress to appropriate money for internal improvements, nor to pass protective tariffs, nor to charter a national bank, nor to interfere with slavery within the States. Van Buren was unanimously named for the presidency. Since there was no commanding personality desirous of what was felt to be a rather empty honor, to wit: the nomination for the vice-presidency, they therefore left the decision to the States. The abolitionists on November 13, 1839, nominated as their ticket James G. Birney, of New York, and Francis Julius Lemoyne, of Pennsylvania. The campaign was carried on with wild enthusiasm, the Harrison war-cry and symbol being "Log Cabin and Hard Cider," as typifying the hope of the country in its hardy frontiersmen and its westward expansion.

The successes of the Whigs were cumulative from the outset, and in the elections they were overwhelming. Only five Southern and two Northern States had Democratic majorities, and the Liberty

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party put itself in evidence by polling 7,609 votes. In the face of such returns the second session of the Twenty-sixth Congress could only attend to routine business while it sat from December 7, 1840, to March 3, 1841. There were no party contests whatever, and even the counting of the electoral votes was perfunctory, for out of a total of 304 Harrison and Tyler had 234. It seemed as if loose construction were to have a free hand, and in particular as if a national bank would be rechartered.

To the history of American politics Van Buren's administration seems at first to furnish only a short chapter, especially as he failed to secure a second term of service. But this in itself is significant, and during his four years there appeared in action some of the most vigorous political characteristics of the American people. His fall was due primarily to our baneful tendency in demanding commercial prosperity as the very foremost test of political success. It is very superficial not to see beneath the surface that causes long operative and very complex, generally more economic and social than momentarily political, produce adversity or its opposite. Yet this was not, and is not likely to be, understood when the multitude is actually suffering, or believes itself to be. There proved to be an enormous vote with slight loyalty to party principle which could make a complete about-face for no better reason than that anything is better than what is. It is to Van Buren's honor that he was absolutely loyal to his convictions and indifferent to popular clamor. He made the presidency stronger as a representative office, and gave that consistency to his party which enabled it to survive the storms that wrecked every

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other, for thereafter it had a platform definite and permanent.

The platform idea was naturally distasteful to the Whigs. They retained the conception of parliamentary government, and did not wish to limit the sphere in Congress of a majority power or of a President possessing no possible means for the literal fulfilment of convention promises. They were at least logical, and so they continued until the party expired. In their death-throe they declared that experience had demonstrated platforms adopted by "partisan convention" to be deceitful and misleading, to widen the political divisions of the country by the creation and encouragement of geographical and sectional parties. While their scorn for party was felt mainly for other parties than their own, yet there is the barb of truth on this Parthian arrow. Nevertheless, for some reason the American democracy, whether strict or loose constructionist, demands a statement of party dogma; and elections cannot be carried without one. Of course the Democratic party never was averse to the "platform" practice, for it had a definite principle and delighted in its iteration. All its humiliations have occurred when it has wandered off into opportunism, or the opposite, as it actually did in forcing the Sub-Treasury plan, to the distaste of a suffering public, a matter but indirectly political.

Another striking phenomenon of this short period is the exhibition of American capacity for institutions. The vice-presidency as provided in the Constitution was of almost equal dignity and importance with the chief-magistracy itself, as far as the mode of selection went. But so far no President

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had died in office; and, while to be chairman of the Senate was honorable enough, yet the office carried with it no real power, especially since the Vice-President could no longer appoint committees. It was apparently becoming decadent as an institution, and men of importance disdained to seek the nomination. On the other hand, the convention system as an institution was manifestly crescent and destined to reach complete fullness. There was law for the vice-presidency, but none for the convention. Yet the creation, action, powers, and duration of the latter were as nicely regulated and the rules as carefully observed as if they had a place on the statute-book. These are solitary but instructive lessons of institutionalism, which is to political societies what morality is to the individual—the test by trial of a habit which, if just and useful, is finally formulated into law.

That the convention system has never been legalized is due to the general desire for directness of election. The electoral college was speedily transformed from a mode of indirect to a machine of direct election. Yet the more numerous the body of voters becomes, the greater the difficulty of securing, not direct election, but any election at all, if the principle of majority be accepted. Hence the need for concentrating attention and ballots on certain individuals finally forced the acceptance of a device imperfect as other human devices are, but the best so far known. That a voter must make a choice between two candidates, neither of whom he desires, is a hardship, but that is politics; and statesmanship in its highest form demands at every moment, not the choice between good and bad—that were easy—but the choice of the least between two evils.

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Hence not merely the toleration shown to the convention system, but, on the one hand, its careful encouragement as an institution; on the other, the stern discouragement throughout many years of every attempt to put its regulation on the statute-book.

XX

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1841-1845

Death of Harrison—Tyler President—His strict-construction firmness—Party loyalty meets popular approval—Restriction of slavery a question—The tariff of 1842—Rise of the Texas question—The national conventions—Course of a critical campaign—Annexation of Texas—Features of the anomalous administration.

THE wide-spread conviction of Harrison's ability rests partly on what he showed during the campaign, which was considerable; and partly upon a legend constructed of pity and exasperation. In his inaugural address he suggested nothing beyond the standard Whig doctrine, condemning the use of the veto by his immediate predecessors, the use of public office for party purposes, and the arrogation of control over the currency by the Executive. He had selected a strong Cabinet, with Webster as Secretary of State, and was doubtless pondering admirable policies when he died on April 4th, having been President exactly a month. For fifty-two years no President had died in office, and the event electrified the country. Suddenly the true importance of the vice-presidency was recognized, and the question of how a successor made President by the act of God should consider his mandate as Executive almost instantly grew acute. Harrison was a loose-construction man; Tyler the reverse. One was entirely Northern, the other an extreme Southerner in feeling, an ultra or conservative Democrat of the

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nullifier type; the man really chosen to represent the people was followed in office by one selected for party reasons to occupy a weak and purely honorary position. What would happen? There was a curious and rather rebellious feeling, and when the worst fears of the Whigs were finally realized there was wild talk about poison, and many violent ultra-partisans believed it. But Tyler retained the Cabinet entire and promised an administration in conformity with the desires of the country. He seemed sincere.

Harrison, finding the federal Treasury in difficulties and further embarrassment certain, had called an extra session of the Twenty-seventh Congress; it met and sat from May 31 to September 13, 1841. The Whigs had a majority of six in the Upper and twenty-five in the Lower House (28-22, 133-108). They passed a bill abolishing the sub-treasuries, and Tyler signed it. At once another bill, most carefully drawn to eliminate all the dangers which had seemed inherent to national banking, was passed by both Houses to charter the Fiscal Bank of the United States; but it was vetoed by the President on the ground of its unconstitutional nature. This was an unpleasant surprise, but the leaders in Congress, after careful consultation with the Executive regarding the details of such a bill as he would sign, drew another which was laid before the Cabinet and, item by item, approved. This again was passed in fullest confidence by both Houses, but when sent to the President he again exercised the veto, giving no reasons. His real convictions, poked out of the door, had returned by the window; not to speak of his innate prejudices. A two-thirds majority to pass the bill over his veto could not be secured, and chaos ensued. Every member of the Cabinet ex-

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cept Webster resigned, and with rash precipitancy Whig members of Congress issued addresses to the people setting forth what they had intended, denouncing Tyler and declaring a complete rupture with him. Their tone was peevish, and that their action was premature was proved by its failure to produce the expected results. The elections of 1841 were unfavorable to the Whigs.

There is a curious fascination in kingship of every kind, even if purely accidental. A man reaching the presidency as Tyler did seems unwise in behaving as if he had been put there by the ballot. Yet such nice discrimination did not lie in Tyler's mind nor in that of the people; he was President, and, however indirectly, as such the people's representative to check the elected servants they had sent to the federal capital to do their work. The masses liked his fearlessness and loyalty to himself, however unconscious he and they were of any violation of contract. So he constructed without great trouble a combination Cabinet of Whigs and conservative Democrats like himself and held his peace.

The regular first session of the Twenty-seventh Congress sat from December 6, 1841, to August 31, 1842. Matters of the first importance pressed for attention. There was a perpetual succession of petitions for the abolition of slavery, most of which were presented through the agency of John Quincy Adams, of Massachusetts. An effort was made to censure him, but failed; the right of petition was saved. It was different when J. R. Giddings, of Ohio, offered his since famous resolutions outlining the plan which was ultimately followed for agitation and legislation against the extension of slavery, and laying down the principal basis of it — *viz.*, slavery is an abridg-

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ment of natural rights, and can therefore exist only by force of positive municipal law; hence it is confined to the territorial jurisdiction of the power creating it. This seemed intolerable to men who believed that the negro, as an inferior being, had no natural rights, and, being chattel property, could be reclaimed wherever found. Accordingly a vote of formal censure was passed condemning Giddings and his doctrine; he resigned, was re-elected, and re-entered Congress in the space of about a month.

The tariff of 1833 had provided for the steady decrease in duties down to 1842, when, by levying twenty per cent. on all imports, it was to be turned from a protective to a revenue tariff. By this time the receipts under diminished duties were less than the expenditures of a government which had made no corresponding decrease in outlay. The Whigs voted to stop reductions and continue duties in the form it now reached; and, further, to distribute any surplus revenue among the States. Tyler vetoed the bill on the ground that it was a breach of promise, still maintaining protection. Thereupon was passed a tariff for revenue, continuing the provision for distribution of surplus. This also Tyler vetoed on account of the distributing proviso. Thereupon the clause was dropped, and the tariff of 1842 became a law. The other important action of the session was confirming the Webster-Ashburton treaty (so called from the negotiators), which arranged many points of difference with Great Britain, settled the Northeastern boundary question (leaving aside that of the Northwest), provided for the total cessation of the slave trade, and inaugurated the practice of extraditing fugitive criminals. During the second session of the Twenty-seventh Congress (December 5, 1842-March

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3, 1843) routine business only was transacted, and no political action was taken. On the very last day a group of anti-slavery Whigs announced to the country the imminence of a struggle for the annexation of Texas, plans for which, it declared, were maturing, and asserted that if they were successful the measure would split the Union.

When the next (Twenty-eighth) Congress assembled in its first session (December 4, 1843-June 17, 1844) the Senate was Whig (28-24), and the House Democratic (142-81). There was, therefore, no possibility of common action in political measures. The President did not conceal a disposition to work with the Democrats. His message declared that if measures of internal improvement were passed they should be for the West. When two harbor-improvement bills were laid before him, one for the East and one for the West, he signed the latter, and the former could not be passed over his veto by the necessary majority. A treaty with Texas, an independent republic, which provided for annexation, was sent to the Senate for confirmation; but it was rejected by a vote of 35 to 16, seven Democrats voting with the Whigs. This made the annexation of Texas a vital party matter. As an independent republic Texas had legalized slavery, although as a state of Mexico its soil had been free. New free States might be carved indefinitely westward to the Rocky Mountains, and even beyond, from the great expanse of territory north of $36^{\circ} 30'$, as far as the boundary claimed by us for Oregon, $54^{\circ} 40'$. But the eastern boundary of Texas was the Sabine River, hence without its vast domain the area available for slave States was vastly smaller than the other. By this time the two leading candidates for the presi-

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dency were Van Buren and Clay; the opinion on this vital matter which each held was imperiously demanded. The former made a cautious answer to the effect that he was opposed to the present annexation of Texas; the latter a definite statement to the same effect. Tyler was an avowed advocate; Van Buren's reply was understood to mean yes as soon as occasion served; Clay's, only at a late date.

The situation imperatively demanded united party action, and four national conventions were held. The Liberty party met on August 30, 1843, at Buffalo and nominated a ticket—James G. Birney and Thomas Morris. Its platform was a ringing denunciation of slavery, with a summons to the free States for legislation forbidding under criminal penalties the return of fugitive slaves to bondage. The Whigs met at Baltimore on May 1, 1844. They agreed easily on the nomination of Clay and Theodore Frelinghuysen, and under compulsion put forth a short platform; its items—or, carrying out the metaphor, its planks—were a national currency, a protective tariff, and the division of surplus revenue among the States. The Democrats met, also at Baltimore, on May 24th. Van Buren's cautious utterance regarding the annexation of Texas had wounded the extreme Southerners, and, though he had a large majority of the delegates as supporters, he had not two-thirds. His opponents appealed to the practice of the two preceding Democratic conventions and secured the adoption of what has been a practice ever since—insistence on a two-thirds vote as necessary to nomination. After eight futile ballots the needed number of votes was secured for James K. Polk and Silas Wright. The latter declined, and the ticket finally named was Polk and

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George M. Dallas. To the permanent platform they added what was very popular in the whole country, the reoccupation of the Oregon country to 54° 40' latitude and the annexation of Texas. This was very shrewd politics indeed. A fourth convention composed of office-holders named Tyler, who at first accepted and then declined; thus, as matters turned out, saving his party from defeat.

The course of the campaign made evident that the situation was very precarious. On the one hand, the Democrats had candidates personally offensive to no one; they were strong with all loose-constructionists in their revenue tariff of 1842, forced on Congress by Tyler; in the annexation of Texas they had a plan popular in the South, and another in the Oregon cry, "The whole of Oregon or none," with or without war with England; "54° 40' or fight" being another form popular over the whole country. On the other hand, Clay was the idol of his friends, though bitterly hated by many foes. Every item of the program published by the Whigs appealed to the ever-growing class of enterprising and rising men: national and unfluctuating currency for industry and commerce; protection for manufacturers, with a home market for farmers; and diminution of taxation in every State. Two circumstances gave great concern: the probability of a large loss of voters to the Liberty party, and the alienation of the Southern Whigs by the candidate's position regarding Texas. In a weak moment Clay wrote an open letter stating that he would be glad to see Texas annexed later. It gained no votes in the South, and lost the votes of the abolitionists and anti-slavery Whigs, who in combination were strong enough to turn the scale in New York, where

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Democratic electors were chosen. To this hour our historians charge those voters with treachery in betraying the Northern interests to the Southern, which in their hearts they detested.

The results of the exciting election were for some days doubtful in fourteen of the twenty-six States. It finally became clear that Polk had been elected by a slender majority. When the second session of the Twenty-eighth Congress opened (December 2, 1844–March 3, 1845) a bill to organize Oregon as a Territory up to $54^{\circ} 40'$ was presented, and the Senate passed it; but, since it prohibited slavery, the House rejected it. Thereupon the Texas question was taken up and in one aspect or another debated and considered almost to the exclusion of other business. Finally, by joint resolution of both Houses, it was annexed as if independent, and therefore with slavery; but another clause forbade the erection of any but free States from its lands north of the Missouri compromise line $36^{\circ} 30'$. There proved to be 170 electoral votes for Polk and Dallas, with 105 for Clay and Frelinghuysen. The votes of the Liberty party were 62,300, only a few less than ten times the number cast in 1840. Polk and Dallas were duly sworn into office.

This was a period which saw the problems of transportation and swift intercourse between distant points far advanced to settlement. Our great roads were to be rails, not turnpikes, our motive power on land and water was to be steam. The influence of the Supreme Court under Marshall's direction had been steadily in the direction of welding together the whole country. The system of Territories, delimited in preparation for statehood and covering enormous continental districts of untold resources,

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created a great common interest; the face of the nation was no longer eastward, but westward. Parties and all their voluntary organization were a nationalizing force of the first importance. As there was a steady increase in the number of offices and in the outlay of government, the method of meeting expenses came home to every taxpayer. The office of Vice-President had loomed into tremendous importance; its occupant, suddenly called by act of God to the presidency, and not by the people, had not scrupled for that reason to behave exactly as if he had been an elected Chief Executive. He wielded the veto as Jove hurls the lightning-bolts; to the consternation of the party in power, he defeated their schemes of finance; with virtually no support in Congress he prevented the establishment of a national bank, exercised supreme control over the tariff, and forced the annexation of Texas. No period of four years was ever richer in purely political achievements. Parties were consolidated, their machinery perfected, the executive office kept representative in its leadership of men. International relations grew better in the firm foundation of treaty obligations. Slavery and Texas were the national stumbling-blocks.

XXI

THE WAR WITH MEXICO

1845-1849

Provoking war with Mexico—Opening of hostilities—The Wilmot Proviso—The slavery question in Congress—Peace with Mexico—The national party conventions—Party struggles in Congress—Polk's defense of the veto power—Growing power of Executive—The Senate not a privy council.

TYLER, though elected by Whigs, followed the Democratic custom of rotation in office when he became President; and Polk, as a matter of course, now made a sweeping change in the same way, giving a vast majority of the places under his patronage to Democrats. Inasmuch as Texas, both formally in her congress and popularly by a general convention, had accepted annexation, it remained to determine her boundaries. There was no question as regards what lay eastward on the Nueces River; but she had shadowy claims as far westward as the Rio Grande. Land-greed is a paramount passion even in strict-construction hearts. Gen. Zachary Taylor, with an armed force, first picketed the Nueces and then crossed it, occupying the broad march between the two streams. It was at once erected into a United States revenue district with a resident customs official. The Mexican government was so harassed with its intestine troubles—a chronic disease of that country—as to be for the moment paralyzed. It was only after the hasty composing of many factional disputes that it could

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notice what it felt to be monstrous aggression. Texas is a continental territory as extensive as any three European lands except Russia, valuable for what is above and below the soil, capable of supporting an enormous population, and the disputed strip was a very substantial addition even to that. Mexico finally despatched six thousand troops under Arista to the frontier.

The first session of the Twenty-ninth Congress lasted from December 1, 1845, to August 10, 1846. Both Houses were Democratic (30-25; 142-75, with six independent votes). The message was commonplace enough, recommending the Sub-Treasury plan, a tariff for revenue, and no agitation about slavery; but it was naïvely shrewd in treating the Texas matter as one of interest only to the two republics. On December 29, 1845, Texas was made a State, with no mention of the boundary question. It was the following May when the two armies met at Palo Alto, ours numbering but 2,300, that of Mexico about 3,500. The skirmish was indecisive on the first day, but Arista withdrew during the night to a position at Resaca de la Palma, whence Taylor next day dislodged him and drove his force over the Rio Grande. Polk immediately sent a message to Congress announcing that American blood had been shed on American soil by Mexican aggressors, and demanded a declaration of war. Congress seemed to feel that there was already a state of war "by act of the Republic of Mexico," and, with a preamble to that effect, passed an act appropriating ten million dollars for its prosecution. The Whigs voted for the bill on the ground that an American army was in danger, however the situation had been created, but protested against the falsehood in the preamble.

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Throughout its duration there was general though not very hearty support of the war, partly on grounds of patriotism, partly because many honestly believed it would eventually extend the area of liberty. The Liberty party and many Northeastern Whigs denounced it throughout as an attempt to enlarge the area of slavery.

In truth the administration—Tyler an ultra-Southern Democrat; Polk, a sympathizer, though from Tennessee—had forced the question and the war. Any one could foresee that the similar question in the Northwest would have to be eventually settled, but with an adversary of very different caliber. And in connection with Texas there was still a hot dispute to be fought. On August 8th Polk sent Congress a message asking two million dollars wherewith to purchase Mexican rights in the land to be annexed and so end the war. A bill to that effect was introduced, and instantly the slavery incubus again settled on the country. Wilmot, a Pennsylvania Democrat, introduced what was destined to iteration and notoriety under the name of his proviso—*viz.*, resolutions providing that all newly acquired territory should be controlled as to slavery by the Ordinance of 1787; in other words, that there should be “neither slavery nor involuntary servitude therein, except for crime of which the party shall have been duly convicted.” With this proviso appended the Whigs and Northern Democrats passed the bill in the House, but the Senate neglected to act on it at all. The Oregon question was beginning to press; already some very absurd language had been spread on the congressional records regarding the matter; especially the use of the term “reannexation” in the Texas affair seemed

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to demand "reoccupation" regarding Oregon in the party cry of 1844—*viz.*, "54° 40' or fight." At that moment, as now, America and Great Britain were in joint occupation of the Oregon country pending the settlement of claims, hers to the Columbia River, ours to 54° 40'. Under the Convention of 1827 either party could on twelve months' notice terminate the arrangement. By treaty we had acquired, in 1803, all French rights, and in 1819 all Spanish rights along the coast; the question was as to the extent of them. Before further steps could be taken by Congress to settle Texas affairs the Whig members urged an advance regarding Oregon, and by vote the President was ordered to send the required notice. For a time war was inconveniently imminent, but both countries compromised and accepted 49° north latitude as the boundary. This action, though strictly executive, Polk referred to the Senate for consultation as to a privy council, desiring to divide the responsibility. Thereupon the Oregon bill with the Wilmot Proviso passed the House. The Senate refused consideration.

Such being the indecisive position of the parties regarding the future of expansion and slavery, the majority action was equally inconsistent in relation to strictly party principles. Both Houses passed the revenue tariff of 1846, and Polk signed the bill; both likewise passed appropriations for internal improvements in the form of a River and Harbor Bill, and this the consistent Executive vetoed on the ground that under the Constitution Congress had no power to make any internal improvements. The second session of the same Twenty-ninth Congress (December 7, 1846–March 3, 1847) was uneventful because of the same party vacillation. Iowa was

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admitted as a State on December 28, 1846. The message recounted the American successes in Mexico and claimed the Rio Grande as the western boundary of Texas, urging measures for the prosecution of the war and a grant to purchase Mexican territory. The urgent appropriations were easily secured, but to that for the purchase money in a forced sale was tacked the Wilmot Proviso. In that form it was voted by the House; but the Senate passed it over. An effort to extend the Missouri compromise line of $36^{\circ} 40'$ to the Pacific failed by a purely sectional vote, North *vs.* South. A River and Harbor Bill passed both Houses, but so late that Polk used the pocket veto.

The dread of facing so grim a specter as the slavery question was again exhibited in the first session of the Thirtieth Congress (December 6, 1847–August 14, 1848), for, though the Senate remained Democratic (35–21), the House was Whig (117–108). In order to make some use of their majority the Whigs passed a House resolution approving appropriations for rivers and harbors on the grounds both of general utility and their value for common defense. Many Democrats voted for the resolutions. Polk succeeded in his peace negotiations, and the Treaty of Guadalupe Hidalgo, signed on February 2d, added a vast expanse of territory to the possessions of the United States. A bill aiming at compromise in the slavery struggle was introduced and passed in the Senate, erecting territorial governments for Oregon, New Mexico, and California, and providing that all questions arising within them concerning slavery should be settled by the Supreme Court. The House rejected it and sent up to the Senate a bill making Oregon a Territory without slavery;

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the Senate amended it by appending a provision extending the 36° 40' line to the Pacific. This amendment was rejected by the House, where there was a strong aversion to splitting the country by legislation into halves, was then dropped by the Senate, and the bill became a law. On May 29, 1848, Wisconsin was admitted as a State.

The universal perplexity of the nation was manifested in a striking way by the party conventions of the year. That of the Democrats met at Baltimore on May 22, 1848, reiterated the platforms of 1840 and 1844, and nominated Lewis Cass and W. O. Butler. But when a resolution was presented to the effect that Congress had no power over slavery in States or Territories, it was lost by an enormous majority. The Democrats would not commit themselves. The Whig convention met at Philadelphia on June 7th, issued no platform, and nominated Zachary Taylor and Millard Fillmore. But when the effort was made to have the Wilmot Proviso adopted as a statement of party principle, it failed entirely. The Whigs would not commit themselves. Neither of the great parties, then, was anti-slavery, neither was pro-slavery. But the State of New York was a hotbed of political ferment, and the Democrats had split into two factions, both of which had sent delegations to Baltimore, where parts of both were assigned seats as members. The ultra Conservatives had received the name of "Hunkers" (sitting firm); the others, being perfectly willing to attack the slavery question, were taunted with destroying their traditions and were styled "Barnburners"; they called themselves "Free-soilers" and "Free Democrats." Since the Democratic national convention finally gave recognition to their adversaries, their

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delegates were withdrawn altogether, and on August 9th, at Buffalo, a third national party was formed by the fusion of these Free-soilers into the Liberty party. They nominated Van Buren and C. F. Adams on a terse platform, setting forth that Congress could no more make a slave than it could a king. Many Northern Democrats went over to this new fusion, while Taylor, being a Louisiana slaveholder, attracted many Southern Democrats. When the elections indicated a Whig success, the Northern regular Democrats charged those of the South with betrayal, and the congressmen of the former voted against every slavery measure.

So, therefore, when the Thirtieth Congress met in its second session (December 5, 1848–March 3, 1849) a bill to organize the Territories of New Mexico and California, with the Wilmot Proviso, was carried in the House by a purely sectional vote, South *vs.* North. The Senate having refused consideration of the measure, the House passed a resolution by the same vote denouncing the sale of slaves in the District of Columbia as a reproach to our country throughout Christendom. This maddened the Southern leaders, and in revenge the Senate attached as a rider to the general appropriations bill the organization of New Mexico and California as Territories without the Wilmot Proviso. This, they thought, would force the hand of Northern Congressmen who dared not leave the Treasury empty. The House substituted for the rider a provision for organization, leaving the existing Mexican law in force for a time; that law had abolished slavery. It was the Senate which was now in perplexity. It struck off rider and proviso both, and then passed the bill, leaving territorial organization in abeyance.

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The count of the electoral votes showed a majority of 36 (163-127) for Taylor and Fillmore, and they became President and Vice-President respectively. While the Free-soilers had no electors, their vote was nearly 300,000.

Polk had been so savagely attacked for his free exercise of the veto power that he was stung into a defense. In his last message he set forth a constitutional view which, with some fluctuations, has virtually controlled every President since his day: The people, by the Constitution, have commanded the President as much as they have commanded the legislative branch of the government to obey their will; they have said to him in the Constitution, which they require he shall take a solemn oath to support, that if Congress pass any bill which he cannot approve he shall return it to the House in which it originated, with his objections. If it be said that the representatives in the popular branch of Congress are chosen directly by the people, it is answered—the people elect the President. If the two Houses represent respectively the States and the people, so does the President. The President represents in the executive department the whole people of the United States, as each member of the legislative department represents portions of them. That this is the popular voice is proven by the enormous vote cast in each presidential election when compared with that of intervening years.

The ever-growing influence of the Executive was not alone evident in this convincing argument and the circumstances which called it forth. What Tyler had done in forcing legislation upon Congress, Polk continued to do in unprecedented measure. It was he who devised the details, reiterated the

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principle, and forced upon a country protectionist at heart a purely revenue-tariff bill, that of 1846, and thereby assumed the risk of reading a vast number of protectionist Democrats out of the party. But what was vastly more striking, his was the entire responsibility for the war; he provoked it; Congress must either support it or appear as if betraying the country; he brought it to a conclusion which, however doubtful the justice of the struggle, increased the prestige of America and enlarged her borders enormously. It seemed as if the strict-constructionists were to monopolize glory if every principle went overboard.

The Oregon question had given Polk an opportunity to end for ever a function of the Senate which many conservatives believed it possessed, however infrequently exercised, and on which it plumed itself not a little—that of a privy council. The parties had used the dispute as ammunition until confusion prevailed. The Senate was the focus of party strife. Polk demanded its advice about accepting or rejecting the British proposition. The Senate shirked and refused. It dared thereafter utter no word of censure on his unpopular action in accepting. Since then there is no pretense that it is advisory to the Executive, although, in an ancient phrase, it still “advises and consents” when ratifying treaties, when confirming or refusing to confirm appointments.

XXII

KANSAS—NEBRASKA

1849-1853

Tendency to consolidate parties on the slavery line—Squatter sovereignty—Application in California—The Compromise of 1850—Political eclipse of the Executive—Appearance of the Kansas-Nebraska question—The conventions and election of 1852—Renewal of the Kansas-Nebraska question—Social influence of Southern leaders—Renovation of the Senate's prestige.

IN the ability of its members, in the dignity of its deliberation, and in the influence it exerted about the time of Jackson's advent, the Senate had secured for itself a reputation not even yet forgotten. But in the enlargement of executive power the body had declined in power and prestige. It was now again to have its qualities exhibited in a kind of rejuvenation. The election of Taylor was an important milestone on the road of political development. The new President was a Whig and a slave-holder. The Democratic party was split by the slavery question, and its opponents, being in power, had refused to put forth the Wilmot Proviso as one of their tenets, while remaining non-committal on the vital question, positively and negatively. Accordingly the pro-slavery Whigs began to join the Democratic majority, which had also remained non-committal, but which had been deserted by the Free Democracy, and was therefore largely pro-slavery. To a Whig pro-slavery Executive a disintegrating party was a broken reed for support; Taylor as President was

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not recognizable as the general. The executive office was soon eclipsed by the department of government where the real question of the hour could be debated without fear of rebuff.

This question proved to be that which had occupied the attention of the Democratic convention: whether the people of a new settlement seeking organization as a Territory could say the decisive word on slavery within their boundary limits, or whether Congress was the arbiter. The citizens of such new districts holding their land by the obligation to live on it or squat (sit firm) thereon, as the vulgar phrase ran, this doctrine was known as that of squatter or popular sovereignty. In form it was that the Constitution gave Congress no power over Territories as to whether their inhabitants should or should not permit slavery within them. This in its nature was, of course, a strict-construction theory more palatable to Democrats than to Whigs. Its effect on the past politics or history of the country seems to have had very scant consideration because, though utterly inconsistent logically with the Missouri compromises of 1820, it was adopted by the Southern leaders. Nor did they have a suspicion that quite possibly such a theory might work to their own serious disadvantage.

What occurred in California was, therefore, a staggering blow to their calculations. Yet, curiously enough, their convictions were not shattered at all, but continued to guide their conduct for years later. The rush to the gold-fields of California is in a sense the epopee of America: the time and life, the labor and exhaustion of that tremendous migration by land and sea if otherwise used would have enriched the nation in a far higher degree, for every

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ounce of gold was produced at a loss. On the other hand, the enterprise thus liberated set free the whole great subsequent stream and initiated a confidence in the free exertion of white men that has since grown with every hour. The human flood pouring so unceasingly onto the Pacific coast encountered in its flow untold hardship by land and sea. Yet, overcoming every obstacle, the population of California within a few months was large enough to demand organization as a State. On November 13, 1849, a constitution was adopted which forbade slavery. Here was a problem indeed. In that action began the events which very shortly made the slavery question more poignant to the westward than it was in the East and the South.

In the first session of the Thirty-first Congress (December 3, 1849–September 30, 1850) the membership in the Senate was 35 Democrats, 25 Whigs, and 2 Free-soilers, a Democratic majority of 8; but in the House there were 110 Democrats, 105 Whigs, and 9 Free-soilers, leaving the balance of power with the Free-soilers. To elect a Speaker seemed impossible, for 62 ballots gave no result. It was then agreed that a plurality should elect, and a Democrat was chosen—Howell Cobb, an extreme slavery advocate. Anticipating California's application for statehood, Clay came forward once again with a series of measures which, taken together, are a matchless specimen of the political compromise. These were intended to secure a middle course between the extension and restriction of slavery, now respectively advocated in a strife embittered almost beyond restraint. He proposed the admission of any new States properly formed from the territories belonging to Texas, with money compensation to

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that State for the same; that a single bill should enact both the admission of California as a free State, and the organization of both New Mexico and Utah as Territories with squatter sovereignty. As if to bind this compact, a more rigid Fugitive Slave Law should be enacted; and the sale of slaves, though not the institution of slavery, should be forbidden in the national District of Columbia. Every one was somewhat dazed; few understood; the logical minds of both sides got no hearing; and, like all compromises, this one was distasteful to the hot-spurs of both sides. Yet it did seem one, and perhaps the only, way to avert disaster. All the measures were at first included in a single bill; but as debate proceeded it grew more and more probable, finally quite certain, that each should be adopted separately; and so they were adopted, each becoming a law. California became a State on September 9, 1850. The new Fugitive Slave Law directed United States commissioners everywhere to surrender fugitive slaves without jury trial, and ordered all good citizens to aid in their apprehension. Without delay the chase began, even with bloodhounds, the flying blacks when caught meeting no more consideration than valuable animals, and not always that, for, at least in the capacity to make owners vengeful, they were men. This intensified humanitarian feeling; the number of "underground roads" increased, Northern populations ignored and thwarted the law, and some Northern States passed personal-liberty laws to protect free negroes. The Compromise of 1850 quickly exhibited its menacing side, though it lasted for years.

Taylor died on July 9, 1850, and Fillmore slipped into his place with no disturbance of any kind, for

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the Whig administration was continued without alteration. He was in no way greater than Taylor, both having been awed into leaving executive influence unexercised and confining their presidential activities to the difficult task of soothing congressional animosities and compromising legislative oppositions, largely personal. Had either been a wilful, powerful man, this situation would probably have been so strained as to snap; as it was, the development of executive power and prestige was arrested. There were, and could be, no party contests in the second session of the Thirty-first Congress (December 2, 1850–March 3, 1851), for the old questions were in abeyance before the one absorbing new one, and the compromise was in a balance too delicate for rough handling. The Southern radicals, moreover, were carefully studying its provisions and its capacities for their purpose. As yet they were not ready to announce their discoveries, so talk about slavery was minimized and routine business occupied the time.

The summer of 1851 was fully occupied by the voters in deciding that the compromise, even though put together by Clay, was on the whole good, and by the statesmen in making discoveries, both as to its full meaning and of the certain events that would ultimately flow from it. That the masses did not fully apprehend its meaning was more and more manifest in the conviction expressed that it firmly settled the slavery question, exasperating as the necessary friction was. Hence, when the Thirty-second Congress assembled in its first session (December 1, 1851–August 31, 1852) there appeared on the surface little else to be done than the routine adoption of unimportant administration measures, with the

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occasional rejection of one or more. The rising cloud of difficulty appeared again, however, in the form of an agitation to make a Territory of the Platte River Valley, up which the great migration bound for California took its way toward the Grand Pass of the Rocky Mountains, and along which, in consequence, there was considerable pioneer settlement. This was the commencement of the Kansas-Nebraska conflict, a civil struggle of vast importance and pregnant with results. For the time action was postponed.

The three conventions of the year showed how incomplete was the array for the impending conflict. The Democrats met in Baltimore on June 1, 1852, put forth their usual strict-construction platform, gave a new indorsement to the Virginia and Kentucky Resolutions of 1798, and pledged the party to oppose all agitation of the slavery question, to support the Compromise of 1850, including obedience to the Fugitive Slave Law. They nominated Franklin Pierce and W. R. King. The Whig convention met in the same Southern city, issued a cautious statement of loose-construction principle and measures, indorsing likewise the Compromise of 1850, including the Fugitive Slave Law. They nominated Winfield Scott and W. A. Graham. The Free-soil Democrats met in Pittsburg, a Northern city, and in no doubtful tone announced their principle—"Slavery a sin against God and a crime against man." They further reprobated the Compromise and denounced both the parties which supported it. They nominated J. P. Hale and G. W. Julian. When the elections were over it appeared that the Whigs had made a substantial gain in the number of voters, but the result was overwhelmingly Democratic.

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The Thirty-second Congress opened its second session on December 2, 1852, and adjourned on March 3, 1853. Though its business was mainly routine, the Kansas-Nebraska conflict was formally opened by the introduction of a bill to organize the entire Platte country as a Territory with the name of Nebraska. If the doctrine of squatter sovereignty were to control, this would mean preparation for a vast free State. Accordingly the Southern leaders, still unwilling to unfold their plans, secured a suspension of action by laying the bill on the table. This postponement could not last long, for it was now generally understood that the slavery advocates, having carefully surveyed the ground, were to take the position that the Compromise of 1850 entirely superseded that of 1820. Of course, if this were true the Missouri compromise line of $36^{\circ} 40'$ was no longer existent, and squatter sovereignty would be the supreme law of all new settlements, North or South or West. They dared not, however, announce this as yet; the time was not propitious for disturbing the serene unconsciousness of the great mass of voters, busy as never before in adjusting themselves to difficult but promising economic conditions. The electoral votes were counted. Pierce and King had the overwhelming majority of 254 to 42. The Whigs had carried only four States; the Free-soil vote had diminished by nearly one-half. Pierce was inaugurated on March 4th; King, being ill, not until a later date.

It will be noted that as far as executive policy is concerned the Taylor-Fillmore administration was virtually a blank. There were no foreign affairs requiring the shaping of a plan, though in a sense our foreign relations were never more important.

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To the European world the Southern slaveholders, great landed proprietors and guiding spirits at Washington, appeared, as they did to themselves, to be a governing aristocracy. That notion got itself so deeply embedded in the general mind at home and abroad as to add immense moral influence to their conduct and their utterances. Nothing was more difficult in the last analysis than to combat the prestige of the Southern leaders. Politics is always complex; when slavery entered the arena as a political question it carried, besides its economic importance, an enormous social weight of influence at home and abroad. This was particularly felt at the national capital, where, as in other like cities, more important business is transacted in the drawing-room than in the office. The whole tendency of the presidency is in its nature toward form and state; at this time it was not good form to drag the intensity of slavery agitation into society.

The shy and retiring tendency of the Executive was coexistent with a second blossoming of power in the Senate, where the Southern gentry were disproportionately influential in numbers and self-assertion. The epoch of Webster, Clay, and Calhoun so exalted the Senate in general esteem that its momentary decline was scarcely noticed in the days of Tyler and Polk. Once again the poignant and vital issues of a gigantic struggle were matters of principle—economic, social, humanitarian. New doctrines must be discovered and adjusted to facts by whichever party was to win; the respective rights of head and members in a federal state must be determined; the machinery must be readjusted to the new positions which had imperatively to be taken and defended. This it was which now aroused the

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States North and South to send their best men into a forum which, through the public press, was to instruct, enlighten, and clarify the minds of voters by the million. There was no limitation of debate in the Senate; a minority could secure a hearing there as nowhere else and, without restriction, whet its zeal to become a majority. Hence, though partisan to the extreme, the Upper House grew of necessity to be the cooling-vat for congressional action, a dignified, conservative, and aristocratic chamber.

XXIII

PARTY WARFARE

1853-1857

Demand to interpret Compromise of 1850—The Kansas-Nebraska Bill—The Know-nothing party—The struggle for Kansas—Formation of the Republican party—The settlement of Kansas—War in Kansas—Assault on Sumner, and the conventions—The elections indecisive—The irrepressible conflict.

THE new President, though not a man of the highest power, possessed a higher courage than his immediate predecessors; at least he displayed some willingness to use the accumulated prestige of the Executive as representative of the people when occasion served. His popular majority was large, and there was an increased Democratic majority in both Houses when the Thirty-third Congress met in its first session (December 5, 1853–August 7, 1854). There was at first apparent hesitancy in meeting the insistent issue. The message asserted Pierce's intention of carrying out the Compromise of 1850, but there was no unfolding of its interpretation. There was offered in the Senate a bill for the organization of the entire Platte country as the Territory of Nebraska, on the basis of the Missouri compromise, but when a Southern member remonstrated it was dropped. It was on January 23, 1854, that the notorious Kansas-Nebraska bill was introduced. This measure proposed two Territories: one directly west of Missouri, with north and south boundaries of 37° and 40° latitude, to be called

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Kansas; another north to 43° latitude, to be called Nebraska. Both were to exercise squatter sovereignty.

This unmasked the plans of Southern leaders completely. Under the Missouri compromise all these lands were free soil. They held that the Compromise of 1850 established the constitutional principle of non-interference by Congress with the slavery question in Territories; the Missouri compromise line of $36^{\circ} 30'$ was wiped out; that measure was inoperative and void because repealed. About this bill, therefore, the fortunes of the Union were to turn. It finally passed both Houses, its only opponents in the Senate being the Northern Whigs and the Free-soilers. But when, two months after passing the Senate, it reached the House, there was an even split in the Northern Democratic membership, 44 opposing to 44 favoring; the former, with the Northern Whigs and the Free-soilers, being in opposition. The breach in the Democratic party was later repaired and rebuilt. That in the Whig remained open; its Southern members retained the name and a semblance of organization for a time; the Northern members were known as the Anti-Nebraska men. It was, of course, only a matter of a few years until the Southern Whigs should again divide, a majority absolutely sympathetic with the Democrats on the slavery question joining their forces; a considerable minority, however, going over to a new national party, the Know-nothing or American party, now about two years old.

As early as 1814 the Hartford Convention had declared the naturalization of foreign-born men to be entirely too easy. The feeling grew, and in localities adversely affected by inert deposits of ignorant

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settlers was at times acute. There was an effort to found a national American party in New York about 1835; it met with some success, but very slight. The United States were still a Utopia, a refuge for the distressed of all lands; considerable obloquy attached to men who did not cherish such an ideal. But in 1845 the co-called "American" impulse revived in New York and spread to Philadelphia. There were formed inchoate organizations, but these divided on the question of supporting Clay, and the party died still-born. Feeling the exasperation of foreign control in district politics, and yet afraid of publicity, those who sought a remedy in political organization began to create groups on the Masonic model: secret oath-bound societies subject to a central control, which reserved to itself the aims and methods of the association, though the numerous blind followers, greatly enjoying the mystery, shrewdly guessed it and gave implicit obedience. When questioned, they could only reply, "I know nothing," and hence the name. The idea spread swiftly, and there were lodges everywhere. To these the central power sent the names of candidates, generally chosen from the lists of the great parties. Every member, sworn to obey, voted as commanded, and the Know-nothings decided many an election. It came to be generally understood that they voted for Americans pledged or likely to do American things in the American way. Hence they accepted the name of the American party. To them a branch of Southern Whigs associated itself, and so they carried nine States in 1855, nominating a presidential candidate in 1856. Thereafter, in the storms of savage political contest over a single burning question, they disintegrated.

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The second session of the Thirty-third Congress (December 4, 1854–March 3, 1855) tried the internal-improvement policy of unrelated projects—apparently for local political purposes—and both Houses passed a River and Harbor Bill; but Pierce vetoed it. The rest of their work was routine.

The efforts of the South to bend the practice of squatter sovereignty to its ends in Kansas had turned that fertile land into the theater of a fratricidal war. When the Thirty-fourth Congress met (December 3, 1855–August 18, 1856) in its first session, the Democratic majority in the Senate was 34–25; in the House there was, on the other hand, a strong Anti-Nebraska majority; but such a proportion of it was composed of mysterious Know-nothings that unity of action was most uncertain. It spent over two months in the effort to elect a Speaker, taking 133 ballots. Finally, by recurring to the plurality plan, it chose Nathaniel Banks, of Massachusetts, an Anti-Nebraska man. Amid scenes of absolute chaos in Kansas the pro-slavery settlers had convened and arranged elections, so that a sort of legislature was thus in session. The House appointed a committee to go and examine how it had come into existence; they went, returned, and reported that there had been no fair and free election. Thereupon the army appropriation was voted with the proviso that federal troops should not be used in Kansas to enforce the acts of the pro-slavery government. This the Senate rejected, and then adjourned. The President instantly called an extra session; the proviso was dropped; the bill passed, and final adjournment was had.

In the year 1856 was formed the third loose-construction party. It took the name of Republi-

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can. Its program included protection, internal improvements, a national-bank currency, and the control by Congress of slavery within the Territories. For this last clause its opponents flouted it as the Black Republican party, a reproach continuously used by them for years. Being in this respect, as in all others, loose construction, it had in its essence the conditions of permanency.

The struggle for Kansas being a contest for popular sovereignty within its borders, the immigration of pro-slavery voters was furthered in every way; and, since the approach was across a slave State, the lines for such were kept wide open, while for anti-slavery voters both the United States and Missouri authorities made access almost impossible. Moreover, the inhabitants of Missouri itself poured like a flood across the border to vote, returning at once to their homes. On November 29, 1856, therefore, a pro-slavery congressional delegate was elected and sent to Washington. The following spring, in the same way, delegates to a Territorial legislature were chosen. These met and adopted a State constitution—*viz.*, that of Missouri entire, adding a bill of some fifty possible offenses against slavery, for each of which the penalty was death.

During the winter Kansas colonization societies were established in large numbers throughout the free States, and now the recruits for settlement, equipped for their enterprise, began to move westward in full current. Forbidden by the Missouri authorities to cross the State, they went around by the north and entered from Nebraska. The frontiers both east and north were lined with hired desperadoes who fell upon the caravans and did not stop at murder and arson. They met with a sturdy re-

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sistance, and as the tales of bloody adventure were sent to Eastern homes the cry of "Bleeding Kansas" was heard far and near, redoubling the zeal of Free-soilers. The South also continued to send a large number into Kansas, not so much of intending home-makers as of voters instantly available. This movement did not keep pace with the other, for the Northern whites had increased rapidly and were eager for new homes. By the close of the summer there was a population of bona-fide free-State settlers sufficiently large to hold a convention at Topeka. They stigmatized the pro-slavery legislature as a pure Missouri assemblage and a trick, chose a congressional delegate, and despatched him to force a decision from Congress. On January 5, 1856, this assemblage, having adopted a constitution, applied for the admission of Kansas as a free State; only, of course, to be refused. Leavenworth was the seat of the pro- and Topeka of the anti-slavery organization.

Congress did not hesitate to make a decision, while the President leaped into the arena with a proclamation and with the exercise of his authority as commander-in-chief of the United States forces. By a special message of January 24, 1856, he declared the Free-soil settlers to be rebels who had acted without permission from the federal authorities in the Territory, and pronounced the Leavenworth legislature to be legal. Troops were despatched to enforce its laws. His proclamation warned all disturbers of the peace to return to their homes. The population of Kansas was now relatively numerous, and the two factions organized, each an army. There was desultory fighting throughout the year. The Free-soil towns of Lawrence and Ossawatimie were both sacked. In the struggle at

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the latter place there emerged into eminence a plain man, a fanatic for liberty, whose homely name, John Brown, was to be ominous in the slavery struggle for friend and foe alike. The free-State legislature met on July 4th at Topeka, but was dispersed by federal force; many of its officers and members were arrested by United States marshals and held. Such was the anarchy that the federal pro-slavery governor was recalled. His successor, J. W. Geary, a Northern Democrat, labored hard to restore order, but with very slight success, though he proclaimed the accomplishment of his task.

During this period the debates of the Senate were particularly heated; and Charles Sumner, of Massachusetts, rose to unforeseen eminence. His criticism of A. P. Butler, a colleague from South Carolina, was especially bitter; and P. S. Brooks, a relative of the Senator from South Carolina and a congressman from that State, took an opportunity when Sumner was off his guard on the floor of the Senate chamber to make an assault upon him, beating him savagely with a cane and leaving him senseless at the foot of his own chair. For this outrage he was formally censured; he resigned, was re-elected, and returned to his place. Sumner was so shattered that he spent some years in retirement at home and abroad before recovering sufficiently to resume his public duties. His State refused to elect a successor, and throughout the long interim his seat stood vacant in unspoken but eloquent protest.

The intense excitement on both sides was mirrored in the conventions of the national parties. The Know-nothings met at Philadelphia on February 22, 1856. They demanded that America be ruled by Americans, that twenty-one years' residence

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be necessary for naturalization, and condemned the repeal of the Missouri compromise. The abolitionists—a quarter of the delegates—withdrew when the others refused to demand the restoration of the compromise. Millard Fillmore and A. J. Donelson were nominated, the ticket without the platform being accepted by the Whig remnant, meeting at Baltimore on September 17th. The Democrats at Cincinnati, on June 2d, issued the usual platform, condemned the Know-nothings, approving both the Kansas-Nebraska Bill and squatter sovereignty. They named James Buchanan and J. C. Breckinridge. The Republicans assembled at Philadelphia on June 17th. Their platform demanded internal improvements, including a railroad to the Pacific; required Congress to prohibit both slavery and polygamy in the new Territories, to admit Kansas as a free State, and denounced alike the repeal of the Missouri compromise and the general course of the administration in its extension of slavery. They named J. C. Frémont and W. L. Dayton. In the elections fourteen slave and five free States were Democratic; eleven free were Republican, and Maryland voted for Fillmore. In the popular vote there was no majority for any one.

The Kansas situation was intolerable. There was little interest in the work of the Thirty-fourth Congress's second session (December 1, 1856–March 3, 1857). The Senate was Democratic with 40 members, the Republicans had 15, and the Know-nothings 5; in the House the Republicans numbered 108, the Democrats 83, the Know-nothings 43. Without much debate or interest grants of land were made to aid Western and Southern States to build railroads, and the tariff of 1857, which laid lower duties

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than any since 1816, became a law. In Kansas the Topeka legislature met on January 6, 1857, and was dispersed by federal interference, its presiding officer and other leaders being taken into custody by United States authority. The pro-slavery legislature quarreled with the governor, who was withdrawn, a pronounced Southern Democrat being appointed instead. The House declared the acts of this body to be cruel, oppressive, illegal, and void; but the Senate tabled the resolution. The count of the electoral votes in February showed 174 for Buchanan and Breckinridge, 114 for Frémont and Dayton, 8 for Fillmore and Donelson. This result was considered by heated Northern opinion as a betrayal of a great cause by Pennsylvania and Illinois, whose votes would have defeated the Democrats. As it was, the successful candidates were duly inaugurated.

The lesson of this election was not lost. Party managers began to understand the manipulation of organization in those States where the vote was close or subject to local influences. If there really were a popular will in 1856, party strife had prevented its clear expression; the organs of government operated incorrectly under the influences of party loyalty; personal animosities went beyond the limits of decency, and flagrant offenses were condoned; politics and compromise were impotent; a professional office-holder in such a crisis must, under the influence of established habit, necessarily vacillate. For years the crisis of an impending, irrepressible conflict had fallen on unwilling ears. Now the repulsive truth imperiously commanded general attention.

XXIV

SECESSION

1857-1861

The Dred Scott decision—Slave power legally triumphant—Its economical and political weakness—Its tripartite policy—Kansas and the administration—The action of Congress—The John Brown raid—Bribery investigation in Congress—The conventions and elections—Secession of Southern States—Republican measures in Congress.

THE decisions of the Supreme Court had hitherto influenced party politics little, if at all, except in so far as the interpretation of the Constitution at its hands tended toward national consolidation. No sooner had Buchanan pronounced a colorless inaugural than a decision taken the previous year, but kept private for fear of its consequences, was published to the world with the full knowledge that by it the door of compromise was closed for ever. Legally correct, it was a political thunderbolt. A Missouri slave taken by his master to Illinois, where slavery was prohibited by statute, had there married and was thereupon removed to Minnesota, a Territory subject to the ordinance of 1787 forbidding slavery. Thence his master had brought him back to Missouri, where he had suffered the chastisement of the whipping-post. Even there, under the laws and public opinion of a slave State, he secured a standing in court as a negro freed by residence on free soil, sued for damages and won. By successive appeals the case was carried to Washington as a test. By

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a majority of the Supreme Court judges in the ruling decision it was set forth that slaves were not persons, but things, chattels; as such the plaintiff, descended from slaves, and never emancipated, could have no standing. Whatever the statutes of Illinois or Minnesota or any other State, the Missouri compromise was superseded and void; slave property was guaranteed by the Constitution, and an owner could take slaves as he could horses, or any possessions, anywhere without loss.

The Supreme Court had been considered in this, the famous Dred Scott decision—such was the name of the negro—as an arbiter; but this was the complete acknowledgment of the Southern position, and shut the door to all further compromise; the final arbitrament was removed alike from law and politics. With equal sincerity and devotion the North believed slave property a form of imperfect serfdom dependent entirely upon State law, existing only within the jurisdiction of the law creating it. Slavery extension was not only under this decision possible within the Territories, but even within the free States; therein might be established slavery centers lasting for a considerable time—groups of artisan negroes or domestic slave servants, resident households of visiting slaveholders. Slavery extension now held the legal field, as it had under the suffrage provision of the Constitution virtually occupied the political field. Under the “federal ratio” provision of the first article of the Constitution for every one hundred slaves sixty votes could be and were cast by slave-owners besides **their own**; there were three hundred thousand slave-owners, and in this proportion controlling the South by the co-operation of Northern Democrats, they had con-

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trolled the Union. The compromises of 1820 and 1850 had at least the appearance of being such: this judgment of the highest court opened every portion of the Union to slavery or slave influence. The whole North was exasperated, and Northern Democrats could not endure the obloquy heaped on them as traitors; therefore, under Stephen A. Douglas, of Illinois, they prepared to adopt the minority opinion of the Court and set bounds to the ambitions of the South.

The slave power, as it was now designated, was, however, far from complacent. The far-reaching effect of the Dred Scott decision was manifest and served to quicken their minds and activities. They had enormously enlarged possible slave territory by the acquisition of Texas, the lands taken from Mexico by war and purchase; they had secured the acceptance of popular sovereignty as a working doctrine; they had the pronouncement of the highest court in their favor. But immigration did not seek Texas or the Mexican lands; there was no corresponding increase of States or of representatives; and particularly of Senators, who were necessary above all to make good their political and legal conquests. Texas had been offset by no Northern State at the time; but since her annexation no fewer than five free States had been admitted to the Union, others were nearly ready; and the slave-owners were far from easy as to the outlook for victory in Kansas. They began, therefore, to revive three resources which had already frequently been subjects of discussion—secession, the renewal of the slave-trade, and the acquisition of Cuba either peaceably or by war.

The threat of secession had been worn thread-bare, because wherever used, North or South, there

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had been no sound reason for its use. On the only occasion when it seemed serious, Jackson, one of the Southern idols, had used plain language, hinting also that under certain conditions blood might flow. The character of the man gave effect to his words. Yet the fascination of the idea grew in radical Southern minds, and Buchanan was not a Jackson; he had fallen heir to the compromising conception of the executive office. Under Polk there had been talk of extending the area of liberty over Cuba. Spain refusing to treat for its sale, some hotspurs had said, "Take it." In 1853 France and Great Britain asked the United States to guarantee it to Spain. We refused, and the following summer our ministers to England, France, and Spain, meeting at Ostend, issued the ludicrous manifesto of that name, declaring that we could enjoy neither peace nor safety without the island. This absurdity sufficed to quiet the cry; but the slave power was busy with another system known as filibustering—*i. e.*, permitting irregular armed expeditions to outfit and sail with a view to acquiring territories that might later be incorporated for slavery purposes. It began in 1851 with the sailing from New Orleans of three hundred bravos under Lopez to seize Cuba. He was defeated and executed. Walker, in a similar way, tried his fortunes between 1855 and 1856 in Central America, and vengeance finally overtook him. The end of the expedient was found in a Northern expedition of exactly the same sort, that of John Brown, aimed at the slave power, however, and not at foreign lands. As to restoring the slave-trade, manifestly slave immigration alone could offset free: were there enough negroes, Kansas might be secured, and other similar instances would follow. The effort would be made

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in the next Democratic convention to pronounce favorably on this as party policy.

When the Thirty-fifth Congress met in its first session (December 7, 1857–June 14, 1858) the Senate and House were both Democratic (39: 20: 5 Know-nothings—131: 92: 14 Know-nothings); but there was great dissension between the Northern or Douglas Democrats and the Southern regarding the Dred Scott decision. In Kansas a pro-slavery convention was sitting at Lecompton, engaged in making a constitution. The Free-soilers had so far accepted the governor's intercession as to vote in an election ordered by the pro-slavery legislature. By so doing they had shown their superior numbers, securing the new legislature for themselves; but when the convention submitted its constitution to popular vote in the form, not of acceptance or rejection, but of acceptance with or without slavery, the Free-soilers refused to vote, and the constitution with slavery was, of course, nominally adopted. The new legislature met and ordered another election, and in this the Lecompton constitution was rejected by ten thousand votes. This action in turn was held to be void by the pro-slavery men because, according to their view, the action of the legislature was *ultra vires*.

The President's message to Congress recommended the admission of Kansas with the Lecompton constitution, on the ground that the delegates had a sufficient mandate without reference to the people. This view was sustained in the Senate, but in the House the Democrats divided for and against; hence the former passed a bill with no proviso, the latter with a proviso that the Lecompton document should again be submitted to the people for

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acceptance or rejection. The Senate refusing, a compromise was reached in joint committee, submitting to popular vote a proposed new land ordinance of vital importance, and with this the bill became law. This likewise, by the same vote, was rejected in Kansas, and thus she remained a Territory. The legislature thereupon called another convention; it met at Wyandotte and adopted a constitution prohibiting slavery. To this a popular vote gave four thousand majority. Congress made Minnesota a State on May 11, 1858. A proposition to set aside public lands in the new States for educational purposes was debated, but failed.

The second session of the Thirty-fifth Congress sat from December 6, 1858, to March 3, 1859. In it appeared what was an important matter, a Homestead Bill, permitting the father of a family to purchase a hundred and sixty acres of public land at a dollar and a quarter per acre. It was passed by the House, but delayed by the Senate. The measure to grant land for educational purposes passed both Houses, but was vetoed. Oregon was made a State on February 14, 1859.

John Brown, to whom reference has been made, now appeared on the great stage of national events. Born in Connecticut, he had been a forest ranger in New York and a frontiersman in Kansas, whence he had been driven out for his daring and desperate defiance of the pro-slavery measures to seize the Territory. Thence he moved to Harper's Ferry, Virginia, with the studied intention of filibustering against the slave power to the extent of rousing a servile insurrection among the negro slaves. After a short residence in company with his family and chosen associates, on October 17, 1858, he seized the

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town by surprise, together with the United States arsenal and supplies. There was no uprising of the timid blacks, but the nation was ablaze with indignant amazement. The Virginia and Maryland militia easily overpowered the agitators, killing many and capturing the rest, including their wounded leader. The prisoners were tried and hanged on December 2, 1859. The calm assurance of Brown, his placid conviction that the great work was inaugurated, and his dignified bearing during trial and under conviction were reported in the journals and carefully noted. The abolitionists thought him a martyr, radical pro-slavery men a criminal devil, and the majority a demented fanatic. When war ensued Northern soldiers marched to the chorus: "John Brown's body lies a-moldering in the grave, but his soul goes marching on."

The first session of the Thirty-sixth Congress (December 5, 1859-June 25, 1860) showed a marked change in membership: Senate, 38 Democrats, 25 Republicans, 2 Know-nothings; House, 109 Republicans, 86 Southern Democrats, 13 Northern Democrats, and 22 Know-nothings. There was no majority in the House, and in it pygmies were at the helm. They were months in organizing, angrily debating at intervals a volume just published—*The Impending Crisis*. For four entire months the Senate debated a resolution that Congress and territorial legislatures could not prohibit slavery in Territories. Charges were made in the House that the administration had used bribes to control votes and secure newspaper influence. An investigating committee brought in an affirmatory report, the minority a negative one; and there the matter rested. The Homestead Bill passed the House; the Senate lowered the

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average price of an acre to a quarter of a dollar; the House agreed, and, as hoped for by the slave power, jealous of settlement in the Northwest, the President vetoed it, since it was unfair to give land to newer and not to older States. The application of Kansas for statehood with the Wyandotte constitution was refused.

The Democratic convention met at Charleston, South Carolina, April 23, 1860. To the platform of 1856 they added a paragraph demanding the purchase of Cuba. The majority refused to affirm that slavery was morally right or accept the doctrine of the Dred Scott decision, that Congress must protect slavery in the Territories; but Douglas, wishing popular sovereignty, used the words, "Abide by the decisions of the Supreme Court," which were adopted, and many Southern men withdrew. The convention adjourned to meet at Baltimore on June 18th, where Douglas proved still stronger; the rest of the Southern men withdrew, and the convention nominated Douglas and H. V. Johnson. The seceders went to Charleston, adopted their own platform, reassembled, first in Richmond and again in Baltimore, where on June 28th they nominated Breckinridge and Lane. The Know-nothings announced themselves as the Constitutional Union party, being really a remnant of the Whigs. They met at Baltimore on May 19th, called for the Constitution, the Union, and the law, and nominated John Bell and Edward Everett. The Republicans, in Chicago, May 16th, struck a defiant note, quoting the Declaration of Independence as to freedom and equality of all men, denouncing secession and the administration work in Kansas and at Washington, declaring Congress bound to defend liberty as the normal con-

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dition of the Territories, pronouncing in favor of protection, internal improvements, the building of the Pacific Railroad, and the Homestead Bill. They nominated Abraham Lincoln and Hannibal Hamlin. This program excluded slavery from the Territories, as that of Breckinridge would have admitted it; the followers of Douglas would await the decision either of the Supreme Court or of squatter sovereignty; the Bell platform made no mention of the burning question. Every free State except New Jersey chose Lincoln electors, and even she had four out of seven.

In South Carolina electors were still chosen by the legislature, which was in session when news arrived of the result. It immediately adjourned and called a convention; the federal office-holders of the State resigned. On December 20, 1860, the convention passed an ordinance withdrawing from the Union, summoning other States to do the same, and appointed a commission to divide the national property and the public debt. This action, as expected, "fired the Southern heart," and by the end of January, 1861, the six extreme Southern States had taken similar action. North Carolina and the border States hesitated. It was a sorry situation when the second session of the Thirty-sixth Congress opened on December 3, 1860, to sit until March 3, 1861. In this crisis the President had nothing to say in his message except that it was legally impossible to enforce obedience by the seceding States. The "Northern heart," too, was instantly fired by such connivance at rebellion, and men talked of Jackson's stand. But with timid leaders nothing could be done except to propose futile plans of conciliation and hold a flabby peace congress.

The one firm step taken was the passage of an

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act recommending a change in the Constitution suggested by Douglas, that Congress might not interfere with slavery inside the States. It was useless, for State after State was seceding; Democratic Senators and Representatives were leaving for their homes. The Republicans, thus without hindrance, admitted Kansas with the Wyandotte constitution, and organized territorial governments in Nevada, Colorado, and Dakota, without even a mention of slavery. In February, 1861, delegates from the seceding States organized at Montgomery, Alabama, the Confederate States of America, adopting the United States Constitution, but recognizing slavery and forbidding protection. Already they had seized government arsenals, stores, and forts, and in Charleston harbor were erecting batteries against Fort Sumter, which would not yield. The Morrill tariff of 1861 was passed at Washington, creating a high protective system. Provision was also made for loans and the issue of Treasury notes. Lincoln and Hamlin were found to have 180 electoral votes, and were, but with difficulty, brought to Washington and inaugurated. For Breckinridge and Lane there were 72 electoral votes, for Bell and Everett 72, and for Douglas and Johnson 12.

XXV

THE CIVIL WAR

1861-1865

The quality of the Republican party—Problems of the administration—The awakening of the North—Financial and military measures—The fugitive-slave question—Loose-construction legislation—The Emancipation Proclamation—Suspension of *Habeas Corpus*—Conventions and elections—Exhaustion of rebellion.

THE normal course of party evolution had been steadily thwarted in proportion as the slave power grew stronger and more exacting. The construction of the Constitution, both in the courts and in politics, was strongly influenced by the wants of but one portion of the party. The effort to supply these on the doctrine of strict adhesion to the language of the federal pact had wrought disaster to each successive party which desired the benefit of its implications. Once again a loose-construction party of substantial dimensions was in power. Its victory was not due to numbers, for the opposition had nearly a million more votes in the election; nor was it due to its attitude toward the Constitution. Its control was due to moral forces—the duty to prevent the expansion of slavery, the duty to preserve the Union. These obligations had divided the hostile forces; there was no majority mandate of the popular will except to preserve the Union without the spread of a labor system growing more and more abhorrent in exact proportion as its supporters ex-

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hibited its reactionary effect on their private and public character. Yet the Republican party was loose-construction not merely in its measures for contest, but in its measures for developing the country, and the two sets were reciprocally helpful one to the other.

The President was of excellent stock, at the very climax of his fortunes; his education was the best possible for the exigency he was called to meet, for it was alike broad and sound, wrung from experience and self-assertion in almost every sphere of frontier life and labor. With no exuberance of spirit, he was humorous and sympathetic; a plain man himself, he knew the qualities and aspirations of simple folk. Yet he had sharpened his wits in legal and forensic conflict with the ablest and best-trained minds; and, having traveled throughout the Union, his manners were sufficiently polished to give offense nowhere, while manifestly well suited to win the masses and spare the feelings of the meanest. He was a giant physically, intellectually, and spiritually, and his associates were no longer the dwarfs which for years the ascendancy of the Senate had relegated to the executive field. The administration might well have been daunted: seven States had declared the Union dissolved; more would join them at the first opportunity, and still more would fret and chafe under their inability. Part of the army had already been captured; substantially the rest was within the bastions of forts beset by a warlike foe. By the secretaries of Buchanan the navy was dispersed in distant waters: the arsenals and yards of the Southern States were crammed with supplies; those of the North were empty: for manifest reasons the most experienced and ablest army officers were

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Southern men faithful to their States. The federal Treasury was despoiled, and in the panic petty officials were making off with what they could still lay hands on.

For a short time it had been believed that secession so far was a desperate ruse, many participating in the movement to overcome the North and secure the extension of slavery as a reward for return to the Union. So wide-spread was this conviction and so fixed the confidence in the perpetuity of the Union that there was sincere and influential feeling about winning back the "erring sisters"; and every surrender except that of the one thing, the restriction of slavery, was contemplated and discussed. But those, if there were any, who had participated in secession as a ruse, or who contemplated such a course, were soon aware that as a ruse it was futile and that the movement was dead earnest with those who led it and with most who shared in it. This the North was at first loath to believe, but conviction to the contrary was not slow. The President announced his determination to relieve Fort Sumter, the federal fort at the very navel of secession. On receipt of this news the surrounding batteries on the mainland opened fire and shelled the doomed fortress for thirty hours. The American flag fell before avowed rebels. This was sufficient to arouse a frenzy of loyalty in the free States. Northern Democrats, betrayed in the house of their friends, were as loud for war as the Republicans. Together they acted on most occasions and were known as the Union party, though not blending organizations; not opposed, but standing aloof and sometimes differing in temper and action, were the peace Democrats, whose strength varied widely, according to circum-

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stances, generally the success or defeat of Northern arms. Within a very short time Virginia divided in two, the eastern portion seceding. North Carolina, Tennessee, and Arkansas gave allegiance to the Confederacy. They were really under the compulsion of Confederate leaders; State officers formed military leagues with the government which sat at Montgomery first and later at Richmond. Confederate troops overran the halting States, and by terrorism ordinances of secession were passed. This plan, though tried, failed in Kentucky, Delaware, Maryland, and Missouri.

Lincoln issued a call for seventy-five thousand volunteers, and summoned the Thirty-seventh Congress to an extra session (July 4-August 6, 1861). The Senators and Representatives from the free and border States attended. There were 31 Republicans, 11 Democrats, and 5 Union men in the Upper House; in the Lower 106 Republicans, 42 Democrats, and 28 Union men. There was little hesitancy even at the outset, and there was a feverish haste when news arrived that on July 21st the Union forces had been defeated in the first conflict of the war. Three absent Senators who had not formally resigned were expelled. Bills were passed and approved: to blockade Southern ports; to authorize a great war loan; to appropriate supplies for the army and the navy; to call five hundred thousand volunteers; to punish conspiracy against the United States; and to confiscate private property, including slaves, in use against the United States. The tariff bill of August 5, 1861, raised duties still higher, both for protection and revenue. The House, by the enormous vote of 121-5, declared its readiness to vote any amount of money and to call any number of men needed to

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put down rebellion, and refused to treat with rebels in arms as being a thing abhorrent to the Constitution.

The outburst of loyalty to the Union was almost savage, and was as intense in one part of its territories as in another, always excepting a minority now reduced to silence whose consciences were outraged or whose interests were jeopardized. The "Northern heart was fired"; but the slavery question very quickly became importunate, because vast numbers of fugitive slaves took refuge within the Union lines. General Frémont, in Missouri, declared the slaves of rebels to be free, but the President would not assent, so numerous were the loyal slaveholders in the border States. General Butler, in Virginia, declared the refugees "contraband of war," an ingenious doctrine; and they were cared for in camps which he provided. But generally the Fugitive Slave Law was enforced for loyal slaveholders within the Union lines. The situation caused great uneasiness because many devoted patriots grew more and more impatient of supporting the institution in any place for any reason. The abolitionists and radical Republicans generally expressed disgust and impatience. Like the peace Democrats, they organized occasionally for special purposes, among which the settlement of the fugitive-slave question might be one; but in general the Republicans and war Democrats were patient like their leader, and willing to await the exact moment for action.

The first regular session of the Thirty-seventh Congress lasted from December 2, 1861, to July 17, 1862, and legislation was abundant. Laws were made to punish treason, to free slaves employed against the

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government, to build a railroad and telegraph line to the Pacific, and to grant public lands to various States as endowment for agricultural colleges. The Homestead Bill was passed; the army was forbidden to surrender fugitive slaves, and consuls were sent to the negro states of Hayti and Liberia. A most searching oath, known as the "iron-clad," was devised and imposed on all who might in any way benefit through the service or protection of the United States. The tariff duties were further increased on December 24, 1861. Most important perhaps of all was the act creating a national currency, the promises to pay of the government with no security but its good faith. From their color these notes were styled greenbacks. This was loose construction far outrunning any conception of a national banking system.

The Constitution does not lay any limits to the language of the second section of the second article: The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into active service of the United States. So far, moreover, there had been no occasion to define these war powers, as they are called. During the summer Lincoln decided that it was a war power to lame the enemy's strength of attack or resistance by cutting off supplies. It was a marvel that there was no servile insurrection in the seceding States; on the contrary, the negroes slaved as before to provide the necessities, scant as they might be, for the campaigning of their white masters and the sustenance of their masters' families. Accordingly the President issued a warning to the States in rebellion that if they did not cease from resistance he would regard

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their slaves as free. Of course, this had no effect, and, on January 1, 1863, he issued an Emancipation Proclamation freeing all slaves within rebel territory still unconquered. The equanimity and general approval with which this epochal event was regarded exhibited the amazing change in public opinion concerning slavery. This act linked the cause of the Union with that of abolition. Within a brief time a constitutional amendment made slavery everywhere within the borders of the Union impossible; at the moment the older feeling showed itself somewhat in the loss of Republican votes. The construction of the Constitution as it had been was certainly growing looser and looser, though in this one respect the amendment made strict adhesion to the letter more consonant with public morality.

The second session of the Thirty-seventh Congress (December 1, 1862-March 3, 1863) was most momentous. The most serious measure was the suspension of the *Habeas Corpus* provision of the Constitution. This grave step was taken under the guise of military necessity, so frequent had become the cases in which civil courts freed military prisoners. There is a general conviction that the consequences were serious license; that military arrests were too frequent, summary, and arbitrary. Newspapers were seized and their offices closed; editors and others suspected of treason were thrust behind the casements of forts without trial, and public meetings were dispersed by United States marshals, so that liberty of speech was seriously curtailed. There was hot feeling, and many supporters were lost to the administration. The other important measure was the Conscription Act, compelling men capable of performing military service to enter the

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ranks when their names were drawn by lot for that purpose. This, too, was a serious curtailing of the liberty of the citizen, but at least it had more justification than the other, and was obeyed without resistance except in New York, where feuds between Irish immigrants and the negroes brought on the frightful Draft Riots of 1863.

The first session of the Thirty-eighth Congress lasted from December 7, 1863, to July 2, 1864, and the Houses were both Republican (Senate 36-14; House 102-75, with nine border-State men not enrolled in either party). There were passed laws to raise an internal revenue, to tax incomes, and to substitute a system of national for State banks. Needed amendments were made to both the Conscription and the Homestead laws. The Fugitive Slave Law of 1850 was repealed; and the proposed Thirteenth Amendment was passed in the Senate and sent to the House for ratification, where it failed for lack of a two-thirds majority.

It was convention year, and three were held. The first, on May 31, 1864, at Cleveland, was probably designed merely to influence the action of the second. It was a gathering of radical Republicans, who expressed dissatisfaction with the President as vacillating and easy-going, too kindly to rebels, unable to carry on the war to a victorious conclusion. They nominated John C. Frémont, of California, and John Cochrane, of New York, both of whom at first accepted and then withdrew. The Republicans met at Baltimore on June 7th. Their platform was anti-slavery and in support of the war—no terms to the rebels until after unconditional surrender. The war had been a hard and dreary struggle, with varying results; there was dissatis-

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faction with its conduct, and votes were needed to bring it to a successful conclusion. To win these they nominated Abraham Lincoln, of Illinois, for the presidency, and for the vice-presidency Andrew Johnson, of Tennessee, a Unionist and war Democrat out of sympathy with his State and his party. The Democrats met on August 29th, and the majority were for peace on any terms. Their platform charged that the Republicans after four years had failed to restore the Union, that the Constitution had been violated under the plea of military necessity, and declared that hostilities must stop. They named George B. McClellan, of New Jersey, and George H. Pendleton, of Ohio. Their declaration that the struggle for union and liberty was a failure exasperated the North and gained no votes. All the States except three—New Jersey, Delaware, and Kentucky—chose Republican electors.

The second session of the Thirty-eighth Congress (December 6, 1864–March 3, 1865) showed a temper corresponding to the expression of the popular will in the elections. It passed the Thirteenth Amendment to the Constitution, submitted it to the States, and three-fourths of them ratified it so promptly that it was in force by December 18, 1865. The ordinance of 1787 was thus finally embodied in the supreme law, not of a portion, but of the whole country. In order to protect the refugee freedmen a special bureau was organized, somewhat hurriedly and in an imperfect form, but it began operations at once, making clear that the government assumed full responsibility for emancipation. After a resolution that the electoral votes of rebel States should not be counted, there were shown 212 for Lincoln and Johnson, 21 for McClellan and Pendleton, and

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the former were inaugurated. By this time it was apparent that the resources of rebellion were exhausted. The sympathies of the ruling class in Great Britain and in France had been enlisted for the Confederacy; its last hope was European intervention in some form, but this hope had been blasted. The vigor of Northern patriotism had phases of light and shadow, but toward the end the national resources of the country were so clearly exhibited that no government cared to meddle with its internal affairs.

XXVI

RECONSTRUCTION

1865-1869

Assassination of Lincoln—Collapse of Confederacy—The question of reconstruction—Rupture between executive and legislative—The attitude of Congress—Struggle for legislative ascendancy—The plan and measures of the campaign—The victory of loose construction—The constitutional decisions.

THE rebellion had been from the outset a "rich man's war and a poor man's fight," to use the language of the small farmers who lived on the uplands of the South and who never loved the great planter aristocracy of the lowlands. When the government of the patrician class could no longer furnish resources nor secure foreign aid the struggle was, of course, useless. The Confederate army of northern Virginia set the example of surrender, and others were ready to follow, when Lincoln was assassinated on April 14, 1865, by a wretched notoriety-seeker, crazed by the impending ruin of a system with which he sympathized, but of which he had never been a part. Lincoln foully murdered, the world suddenly awoke to the supreme ability, courage, and kindness with which he had performed the terrible work allotted to him, and he became the martyr hero of an incensed but chastened people.

New life and energy revived the outraged North, and when Andrew Johnson succeeded to the presidency he had but one task, the rehabilitation of the Union. Napoleon III. had been preparing to take

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advantage of our perplexities in order to realize the dream of his uncle for a Latin state around the Gulf of Mexico; the Washington government sent his forces to the right about and asserted the non-intervention section of the Monroe Doctrine. Canada and Great Britain recognized the fact that the Union was a giant rejuvenated, and the government at Westminster prepared to make some amends for the destruction of American commerce on the high seas wrought by Confederate cruisers fitted out in British ports. Foreign relations became very simple.

But in the matter of reconstruction it was otherwise. The case had not been provided for in the Constitution. Could a State withdraw from the Union? If so, could it re-enter the Union? Southern negroes had never risen in rebellion against their masters; indeed, throughout the war they had for the most part served like faithful cattle while they remained on their owners' lands. But many had run away, all were eager for a freedom which most did not understand, some had served in the armies of the Union, and after the Emancipation Proclamation they became passionate supporters of the Northern cause. This, with the newly awakened ambitions of the blacks, accompanied naturally by a certain swagger and presumption, roused a race bitterness unprecedented.

The whites were resolved to re-enter the Union as masters in their respective States, depriving the blacks of political rights and repressing their exaggerated aspirations for both political and civil equality. The North was equally determined that not only should the negroes be secure in all the rights of man, but that they should have proportionate

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representation in both State and national governments as citizens of both the United States and the respective States in which they were domiciled. The Republicans therefore regarded the seceded States as conquered Territories, to be restored by the federal government to statehood only when the guarantees offered for the security of the negroes and their rights should be deemed satisfactory. This view regarded a State—which, if a person at all, is an artificial one—as having been guilty of treason, a word defined by the Constitution in Article III, Section III, as consisting only in levying war against the United States or in adhering to their enemies. That an artificial person could be guilty of a crime thus defined was unthinkable to a man like the President. Persons might be traitors, but a State was always a State. In a succession of proclamations he restored to the seceded States all the powers they had ever possessed and opened all their ports except four in Texas. Likewise, to every rebel, except fourteen classes of leaders, amnesty was extended, and the exceptions could sue for pardon. For every one-time Confederate State he named a provisional governor whose duty was to put the administrative machinery in running order. Further, the inhibition on the writ of *Habeas Corpus* was removed in the North.

These measures met with some criticism, but no general reprobation, until it became known after the lapse of some months that the returned Confederate soldiery, smarting under the sting of defeat, had so treated the presumptuous negroes in many places that hot, fierce blood was aroused and outrages of a terrible kind had been committed. In the Northern States education is a fetich, and Northern philan-

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thropists sent large numbers of Northern teachers into the Southern States to establish and conduct negro schools for the negro children. These excellent persons, entirely ignorant of the negro character, began with a type of effort utterly unfit for immediate usefulness; Southern and Northern whites were hopelessly at variance throughout the South, and the latter had the confidence of those who sent them. Though the Republican State conventions had generally approved the executive measures, the Thirty-ninth Congress did not, because they were convinced that the negro was not free and did not enjoy the protection of the law. It had a majority of Republicans sufficient to override the presidential veto. Its first session lasted from December 4, 1865, to July 28, 1866. Both Houses passed a supplementary Freedman's Bureau Bill to assist the emancipated slaves in settling and ordering their lives. It was vetoed on the ground that the limitation on land distribution was so indefinite as to make the freedmen greedy and restless. Many members of Congress were convinced of this truth, and a two-thirds majority could not be secured. But the rupture between executive and legislative already manifest became complete in March. Both Houses passed a Civil Rights Bill giving the freedmen full civil rights and intrusting the enforcement of its provisions to the federal courts. The President vetoed it as disregarding State rights, as giving citizenship to four million unfit persons, and as creating a swarm of useless placemen—all cogent reasons. But it was passed over the veto, and the principle was in due time and by legal means embodied into the Constitution as the Fourteenth Amendment.

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The legislation of the session was all animated by defiance of the Executive. For the benefit of the negroes the provisions of all existing Homestead bills were combined into a new one applying to the public lands of the South: a second Freedman's Bureau Bill continued the organization in order not only to secure these lands for the liberated slaves, but likewise to apply all property of the Confederacy to their education, and to secure military protection for them. Both Houses agreed that no delegation from any State lately in rebellion could sit in Congress unless the Senate and the House united in accepting the State as a member of the Union. This was the direct converse of the view on which Johnson had acted; he protested and vetoed, and the Congress defiantly proceeded to divest him of his powers. The army and revenue taxes were reduced, and the office of General of the Army was revived. The Republican National Committee purged itself of members sympathizing with the President, and issued an address squarely taking issue with the Executive. It called attention to the failure of the Constitution to provide for the reinstatement of conquered insurgent States, denouncing the President's plan as a restoration to power of unreconstructed rebels who would restore a virtual if not a nominal slavery, and declaring that the Republican plan as adopted in the recent legislation would alone give loyal men, black or white, a fair chance. By this time, it must be remembered, the Southern States were overrun with Northern men seeking office and fortune — "carpet-baggers," they were styled. It was no defect in the Constitution, but the unforeseen existence of the freedmen and of race antipathy which made reconstruction so difficult.

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The second session of the Thirty-ninth Congress lasted from December 3, 1866, to March 3, 1867. Its persistent policy was to limit the President's power, and the House made an unsuccessful effort to impeach and remove him from office. Over his veto were passed bills granting the suffrage to negroes in the District of Columbia, to strip him of the power granted in 1862 to proclaim general amnesty, and to admit Nebraska as a State, without limitation of suffrage for race or color. From a professed and partly genuine anxiety lest the Executive should connive at the organization of a pretended legislature, it was provided that the clerk of the House should determine the roll of regularly elected members, and that the members so declared to be chosen should meet at once after the adjournment of the preceding Congress. The practice fell into abeyance as soon as the apparent necessity passed. Of that iniquitous legislative device known as a "rider" the worst instance in our history occurred during the session: to the Army Appropriation Bill were attached two provisions: one compelling the President to convey orders as Commander-in-Chief through the General of the Army, and another disbanding the militia of all States recently in rebellion. Since the General could not be removed without consent of the Senate, this seemed and was intended to deprive the Executive of full command over the army, an unconstitutional law, manifestly; if the eleven States were States, the disbanding their militia was equally so. Protesting against both, Johnson was yet constrained to sign the bill in order to save the appropriation.

But the former States were considered by Congress as not yet restored. The right to issue writs

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of *Habeas Corpus* was intrusted to the federal courts, in order that within their jurisdiction the negroes might not be deprived of liberty; and over the President's veto were passed two bills embodying the Republican measures of reconstruction finally agreed upon: the bill to Provide Efficient Governments for the Insurrectionary States, and the Tenure-of-Office Bill. The former placed the commonwealths lately in rebellion under military rule until conventions representing all citizens, black and white, should form a government satisfactory to Congress and ratify the Fourteenth Amendment; the latter declared subject to Senate control the power of removal from office as well as that of appointment. Thereafter the President might suspend, not remove; and suspension could either be confirmed or reversed only by action of the Senate. So deep-seated was the distrust of President Johnson that between the adjournment of the Thirty-ninth and the regular opening of the Fortieth Congress three extra sessions of the latter, aggregating nearly two months in duration, were held. With a slightly diminished Republican majority the Fortieth Congress could yet override the Executive veto, but nothing was done except to keep close watch on its reconstruction policy.

The first regular session of the Fortieth Congress began on December 2, 1867, and ended July 27, 1868. It was memorable for the impeachment and acquittal of the President. On August 5, 1867, he had requested the resignation from his Cabinet of Stanton, Secretary of War. The request was formally declined, and thereupon the Secretary was suspended and General Grant appointed *ad interim*. On January 14, 1868, the Senate restored Stanton; on February

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21st the President removed him; the Senate declared the act illegal, but General Thomas was appointed in his stead and made a futile effort to enter on the duties of the office. On February 24th the House passed a resolution of impeachment for the President, charging him with high crimes and misdemeanors; and on March 5th the trial began before the Senate sitting as a court under the presidency of Chief Justice Chase. The charges enumerated violations of the Tenure-of-Office Act and, later, violent denunciations of Congress as being naught and no Congress, inasmuch as it had refused admission to Southern representatives. The trial lasted ten weeks, and a test vote showing that a two-thirds majority for conviction could not be secured, it was then abandoned. Chase ordered a verdict of acquittal, and Stanton resigned.

The presidential conventions were held on loose and strict construction lines, the Republicans asserting the right of Congress to fill the gap in the Constitution and control the readmission of the States, the Democrats that their return was automatic and unconditional, with full representation and the right to control the suffrage unimpaired. The former nominated Ulysses S. Grant, of Illinois, and Schuyler Colfax, of Indiana; the latter Horatio Seymour, of New York, and Francis P. Blair, of Missouri. In the ensuing election, Virginia, Georgia, Tennessee, and Texas, having neglected the conditions of Congress, were not permitted to share. New York, New Jersey, Oregon, and five Southern States chose Democratic electors, all the rest Republican. The total result was 214 electoral votes for the Republican and 71 for the Democratic candidates. Grant and Colfax were declared elected. On

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February 26, 1869, Congress adopted the Fifteenth Amendment to the Constitution, asserting the right of universal manhood suffrage without regard to race, color, or previous condition of servitude; and on March 3d the second session of the Fortieth Congress, having lasted from December 7, 1868, to that date, adjourned. On March 4, 1869, Grant and Colfax were inducted into office. The Fifteenth Amendment, after having been duly ratified by three-fourths of the States, was declared in force a year later.

This twentieth administration is most noteworthy in the history of party government. The two great parties being squarely pitted against each other on strict and loose construction lines, it was decided by the victors in the secession struggle that conquered States were virtually Territories, and could be restored to statehood only as new States are admitted. This, in fact, was the method of their readmission. Secondly, it proved impossible for the Republican party representatives in Congress, with an overwhelming majority in both Houses, to convict an Executive who had subjected himself to the severest moral censure, in private and in public life, under an indictment which in substance charged him with asserting in act and word the supremacy of his office. Thirdly, the Fifteenth Amendment, adopted as a party measure, has been a dead letter, because it does not command the moral support of the country.

XXVII

NEW ISSUES AND PARTIES

1869-1877

Reconstruction and the Supreme Court—The Treaty of Washington—Civil-service reform—The question of amnesty and a new party—Returning-boards: intimidation and corruption in politics—Federal troops in the Southern States—Causes of Republican demoralization—Paper currency and a new party—The disputed presidential election.

DURING the twenty-first administration there were six sessions of Congress, an extra and two regular sessions each of the Forty-first and Forty-second. In all of them was a strong working majority for the Republicans, so that their policies held undisputed sway in all three branches of the federal government. The commanding personality was not the President, but Blaine, Speaker of the House, a shrewd and able man of unbounded ambition. On April 10, 1869, a bill was passed which authorized Mississippi, Texas, and Virginia to adopt the constitutions prepared in their respective conventions and to elect State and federal officials, but at the same time requiring the adoption of the Fifteenth as well as the Fourteenth Amendment to the federal Constitution, a new condition. The Supreme Court in the case of *Texas vs. White* held that secession ordinances had been null, that the States seceding had never been out of the Union, that during the rebellion they had had no competent governments, and that Congress had the power to make conditions for their restoration

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to relation with the national government. During the first regular session Virginia, Mississippi, Texas, and Georgia were all restored to full standing. A law was also enacted making any violation of the Fifteenth Amendment a penal offense and authorizing the President to use military force as a sanction for its enforcement. This was further strengthened by a revision of the Naturalization Acts in the direction of great stringency and the appointment of federal election supervisors in cities with a population above twenty thousand. The Supreme Court, in December, 1869, had decided that the law of 1862 making paper notes a legal tender was unconstitutional; in March, 1870, it reversed that decision. To be sure, there were two new justices, but this is a signal illustration of a vital fact—that the Court does eventually mirror public opinion.

Under the new constitutions of South Carolina, Louisiana, Tennessee, and Arkansas no rebel who had once taken an oath of allegiance to the United States, as an office-holder or otherwise, could again hold State or national office. This, of course, disabled the leading men of the Confederacy, and these with their adherents formed a secret society known as the Ku Klux Klan, which ramified widely and used terror to coerce Republican voters in several States. There were outrage and murder connected with their night-ridings and raids, and the whole Republican party was convinced that orderly government was endangered. The matter was quiescent during the second session of the Forty-first Congress, though the jurisdiction of federal officials was enlarged to enforce the Fifteenth Amendment and insure the negroes their vote. But the public attention was largely engrossed by President Grant's suggestion

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to annex San Domingo and by the Treaty of Washington referring to arbitration American claims on Great Britain for damages inflicted on our commerce by Confederate cruisers equipped in British ports. This arrangement was epochal because of the interests at stake; enormous, and yet submitted by two proud nations to the arbitrament of a peaceful court.

The Forty-second Congress sat in extra session from March 4 to April 20, 1871. The two measures of vital importance passed at the close of the Forty-first Congress and during this session of the Forty-second were the Civil Service and Force Acts. The former enabled the President to begin a far-reaching reform, which would deprive politicians of the means for place-bribery by abusing the system of rotation in office. The latter was an ingenious, comprehensive, and thorough plan to enforce the Fourteenth Amendment throughout the South; and to end the Ku-Klux disorders, by permitting for a season only the suspension of *Habeas Corpus* in tumultuous districts. Neither measure was successful. President Grant was sincere in his effort to select fit men, by examination and otherwise, for minor offices and to insure some permanency of tenure, but Congressmen were tenacious of their patronage and refused appropriations. This failure only aroused the thoughtful to further agitation, and in due time the reform of the Civil Service was accomplished. But the Force Act proved merely a fresh exasperation to North and South; the utmost effort to administer its provisions failed.

The first regular session of the Forty-second Congress (December 4, 1871-June 10, 1872) spent most of its time in a vain effort to remove the political dis-

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abilities existing under the Fourteenth Amendment; finally all but seven hundred and fifty persons were amnestied. The exceptions were men who had rebelled after having held the highest offices in the government of the United States. A general election law was passed, but proved futile, since federal supervisors could not arrest and the suspension of *Habeas Corpus* was ended. By the State constitution of Missouri large numbers once in rebellion were still disqualified, and many Republicans desired their restoration to political equality. The rest, or Radicals, did not. There was a split, and by a coalition of Liberals and Democrats the State elections were lost to the regular Republicans. The movement spread into Ohio and elsewhere, so that the Missouri Liberals were unwisely inspired to strive for a national organization and call for a national convention.

This convention met at Cincinnati on May 1, 1872, and announced as its principles: union, emancipation, enfranchisement, enforcement of the three last amendments, universal amnesty, restoring the writ of *Habeas Corpus*, and civil-service reform; on the tariff question it confessed itself without unity. Its nominees were Horace Greeley, of New York, and B. Gratz Brown, of Missouri, both excellent men, yet new to the field of politics and doctrinaire to the extreme. The regular Republican convention met in Philadelphia on June 5th, nominated President Grant and Henry Wilson, of Massachusetts, recounted the party's services, promised civil-service reform, and with the suppression of Southern disorder complete equality for all men. The Democratic convention met at Baltimore on June 9th and accepted the Cincinnati candidates

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with their platform. This alienated a few "straight-out" Democrats who met at Louisville on September 3d to nominate Charles O'Connor, of New York, and John Quincy Adams, of Massachusetts, merely as a formal protest. Both declined to stand. The ensuing campaign resulted in overwhelming success for Grant and Wilson, 286 electoral votes to sixty odd, divided and scattering.

During the second session of the Forty-second Congress (December 2, 1872—March 3, 1873) there was an investigation of bribery charges—*viz.*, the selling to members of Congress by Oakes Ames, of Massachusetts, of shares in the Crédit Mobilier, a corporation organized to build the Union Pacific Railway, for less than their value. Two members were convicted and severely reprimanded; both died within three months. This marked the beginning of agitation against the effort of financial interests to influence legislation for their advantage. The struggle became a political question, and is still unsettled, so elusive and subtle are the forms of bribery invented and tried. This Congress voted to increase the salaries of its own members and of the President by fifty and a hundred per cent. respectively, a measure styled the "Salary Grab," and most unpopular. The Republican force was so overwhelming that no responsibility attached to the Democrats for any errors of judgment or conduct, while corrupt influences of every sort were untiring to bend the power of Congress to their uses. The crisis of Republican fortunes found no statesmen of sufficient character to prevent the humiliations of the party. To avoid intimidation by the powerful elements still disfranchised in reconstructed States and the terrorism of whites over blacks, committees

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were provided to canvass the vote of every election held in them and make a return of the facts. In Louisiana there had been such loose manipulation of these returning-boards that two claimed legitimacy; and two State governments came into existence, each appealing to Congress for recognition. The report of their investigations declared the Democratic more nearly of right, the Republican more nearly of fact, and a bill was introduced ordering a new election under the direction of a federal judge; but it was lost, and anarchy reigned in Louisiana to the further discredit of the Republican party, refusing as it did to use its absolute power for the restoration of order. Four long years of corruption and degeneracy in Louisiana politics were laid to its account.

Grant and Wilson were inaugurated on March 4, 1873, being the twenty-second administration. The popular vote for them proved to be about 3,600,000 to 2,800,000, and the Democratic party began to take heart: this majority was not so overwhelming but that the mistakes of the party in power could work its defeat. The inaugural announced that the project for annexing San Domingo had been abandoned. The Supreme Court in an opinion regarding a Louisiana monopoly decided that the Fourteenth and Fifteenth Amendments placed only the special privileges of United States citizens under the federal protection in order to secure freedom and defense for the former slave race; but that State powers over the privileges of their own citizens were unchanged. The first session of the Forty-third Congress, with a strong Republican majority, lasted from December 1, 1873, to June 23, 1874. It repealed the salary bill, vainly strove to increase the amount

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of paper money (the President vetoed the bill), and could come to no agreement over the tangle of Louisiana affairs. An enormous and wide-spread society of farmers, known as Grangers, existing as a mutual-benefit and protective body, was momentarily a political force in its attempt to obtain the regulation of transportation rates by Congress; but the effort failed. The significance of the movement was the agitation, since so bitter and finally successful, for the control by the federal government of interstate commerce. Louisiana politics assumed the acute form of civil strife to the extent of bloodshed between the factions; the President sent federal troops to restore order, but both contestants maintained separate organizations. The Republican had the sanction of force, the Democratic of popular sympathy.

This policy of federal interference was, in his own words, "exceedingly unpalatable" to the President. Well it might be, for it proved the undoing of both himself and his party. The Southern whites could not tolerate negro rule; by fraud or intimidation they secured the governments of South Carolina, Florida, and finally, in 1876, of Louisiana. The Republican administration supplied troops, not only in these States, but in Arkansas and Mississippi as well. Northern whites of both parties felt and showed much sympathy with the Southern. In any case, the State elections of 1874-75 were overwhelmingly Democratic. The Northern Republicans attributed this to the suppression of the negro vote in the South, Northern Democrats to the popular disgust with the administration for its "dragooning" policy. Whatever the truth of these particular contentions, the administration was unpopular for

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other reasons as well. The Forty-third Congress in its second session (December 7, 1874–March 4, 1875) provided for resuming specie payments and redeeming the three hundred million dollars of existing legal tender, passed a Civil Rights Bill in behalf of the negroes, and considered the dangers inhering in the method of electing a President, but reached no conclusion. The joint rule of 1865 for counting electoral votes gave either House the right of rejecting a vote; but, unfair as it was, it could not be abolished as yet, such was the confusion of opinion and anxiety about troubles now clearly foreseen. Much time also was occupied in exposing a corrupt association of distillers (Whisky Ring) who were defrauding the government and corrupting officials. The Congress reflected the demoralization of the Republican party, and such was the popular discontent that the Forty-fourth Congress had a strong Democratic majority in the Lower House. The Senate and administration remained, of course, Republican. The first session lasted from December 6, 1875, to August 15, 1876. Grant's message dealt largely with foreign relations and the advance of a hundred years in material affairs. There was substantially a deadlock of legislation—failure to regulate the presidential election, failure to prevent public appropriations by the States to sectarian schools, failure to secure general amnesty, failure to reduce the President's salary, failure to impeach and condemn a corrupt Cabinet officer—in short, general paralysis. Money was appropriated for the Philadelphia Exposition to celebrate the centennial year of the nation, and Colorado was admitted to the Union as the centennial State.

The act of Congress providing for the resumption

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of specie payments did not forbid the reissue of the notes redeemed in coin, and the whole subject of paper-money currency still interested many people. There were three nominating conventions: Independent national, or paper-currency men, which met May 17th at Indianapolis; Republican national, which met June 14th at Cincinnati; and the Democratic national, which met on June 28th at St. Louis. The work and nominations of the first are negligible. As to the Republicans, they feared public sentiment and shrank from nominating Grant for a third term. The idol of the machine, James G. Blaine, of Maine, received a great vote, but was defeated by Rutherford B. Hayes, of Ohio, a staunch foe of corruption and an avowed civil-service reformer, though far less able than his opponent as a politician. The choice for Vice-President was William A. Wheeler, of New York. The Democrats denounced the Republican party with all its works and nominated Samuel J. Tilden, of New York, and Thomas A. Hendricks, of Indiana, by an overwhelming majority. It appeared already sure that Tilden would carry all the Southern States except South Carolina, Florida, and Louisiana; it was likely that Connecticut, New York, New Jersey, and Indiana would also support him. This was a correct calculation, except that, while South Carolina proved to be Republican, the results in Florida and Louisiana were uncertain. Tilden and Hendricks had without question 184, Hayes and Wheeler 172 electoral votes. Before long it appeared that the result in Oregon was somewhat uncertain, because, although the Republicans had an unquestionable majority, one of the electors was not eligible, being a federal officer. There was intense excitement. In order

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to minimize the resulting danger and to insure a fair count by the returning-boards of the two Southern States a large number of trusted Northern men, selected and invited by the Republican President and the Democratic National Committee, traveled to the respective capital cities.

The settlement of this unique, disputed presidential election was accomplished only by patience, ingenuity, and self-restraint. The Democrats challenged the right to serve of various Northern electors as being federal officials; these all resigned, and their places were filled or they were rechosen by the electoral colleges. In Florida the question turned on a double return from one county, and the Republican return being finally accepted, the three votes of that State were cast and counted for Hayes. In Louisiana the returning-board declared the eight Republicans elected, but the Democrats claimed eight thousand majority and would not accept the decision. The Republican governor certified the Republican electors, and the Democratic governor those of his party: which of the two was the legal body must be settled by Congress. In Oregon the Democratic governor certified two Republicans and one Democratic elector. The second session of the Forty-fourth Congress sat from December 5, 1876, to March 3, 1877. Grant wrote a pathetic message deprecating harsh judgment of himself for faults committed under pressure from Republican Congressmen. To determine procedure in the electoral count a commission was created, of fifteen members; appointed, five each by the House, the Senate, and the Supreme Court justices. Its conclusions were to be valid unless rejected by both Houses. The commission, as a result of their deliberations, assigned the thir-

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teen dubious electoral votes to the Republicans — the House demurring, the Senate approving. Hayes and Wheeler were declared elected by 185 to 184 votes, and on March 4th were sworn into office.

XXVIII

CURRENCY, TARIFF, CIVIL SERVICE, LABOR

1877-1885

The issues of sound money and State rights—Struggles of President and Congress—Efforts of Congress to coerce the Executive—The conventions and the new political alignment—Assassination of Garfield—Struggles for patronage: moral revival—Relations of capital and labor in politics—Evasion of new issues in party conventions—Relation of President to party organization.

THE popular vote for President in 1876 appeared to give a majority of two hundred and fifty thousand to the Democrats. This fact was not lost in the deliberations of the Republican administration. Grant had issued orders for the withdrawal of federal troops from South Carolina and Louisiana, Hayes enforced them, and the Democratic State governments were at once acknowledged. While the returning-boards had commissioned Republican electors the legislatures had not authorized them to choose State officers; the titles of both electors and State officials seemed therefore to possess equal legality. The summer was full of alarms owing to railroad strikes and consequent disorders. These were suppressed where the State governments felt it necessary, both in the North and the West, by the use of federal troops. The first session of the Forty-fifth Congress lasted from October 15, 1877, to December 3, 1877, and the second from December 3, 1877, to June 20, 1878. In the Senate the Republicans had a majority of three; in the House there was a Demo-

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cratic majority of thirteen. But the Republicans were not hearty in supporting Hayes, believing his concessions to the South unwise and feeble; the Democrats were bitter because he nominated members of the returning-boards to federal office. Both parties were worried and hopelessly divided regarding the new, commanding issue coming to the fore—that of public finance, specie payments, silver and paper currency. Indeed, the National party, so called, polled a million votes in support of paper notes as the only currency.

It was thus that Congress passed over the President's veto an act requiring the coinage of silver, with intrinsic value below that of the market, not as token money for small change, but as a legal tender for the payment of debts—a sorry effort to thwart economic laws. Further, it was forbidden to retire the notes or greenbacks still in circulation. Money was appropriated for the army with the proviso that troops should not be used as a "*posse comitatus*"—a reprimand to the President. A committee appointed to investigate election frauds in the South discovered a secret cipher, telegraphic correspondence emanating from close friends of Tilden and arranging for bribery of the returning-boards. Tilden denied all knowledge, but the title of Hayes was much strengthened. Specie payment was resumed on January 1, 1879. An extra session of this Congress began on December 2, 1878, and ended March 4, 1879. The message emphasized the existence of election fraud in all the Southern States, depriving the blacks of the suffrage. Nothing was done, the only legislation of importance being an act to refund the national debt at four per cent., and inaugurating the subsequent abuses of pension legislation by grant-

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ing arrears to those who had not filed their claims earlier. No appropriation bill for the army was passed because the House appended a "rider" to repeal the general-election law.

For this reason the Forty-sixth Congress was called in extra session and sat March 18-July 1, 1879. Both Houses had substantial Democratic majorities. A bill providing for unlimited coinage of silver failed, though it had the support of strong minorities. In their effort and zeal to limit federal authority the Democrats had recourse again to "riders" on the essential bills: to the Army Bill a repeal of permission for the army to keep peace at the polls; to the Legislative Bill a repeal of permission for federal officers to count votes at Congressional elections or arrest offenders at the polls; to the Judiciary Bill a third which forbade the payment of federal officials for election services. All three were vetoed, and finally the Appropriation Bill for the army was passed without a "rider"; it became law by the President's signature. What weakened the moral support of the Democrats was the wide-spread feeling that they desired to coerce one branch of the government by the refusal of another to grant supplies. There was an enormous migration of negroes during this season from the South to the Northwest, due partly to railway enterprise, partly to the unsettled conditions of the South. The first regular session lasted from December 1, 1879, to June 16, 1880. Persisting in their policy of "riders," the Democrats were thwarted by the veto, and there was no legislation except the passage of a bill, which became a law, restricting the use of federal troops in State affairs and elections to suppressing domestic violence. There was not even a discussion of means

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to prevent disputed electoral counts; an effort was made in the State of Maine to count out a Republican majority in the legislature, but even that did not produce action; the Republicans could not intrust the final decision of returns to a Democratic Congress, neither party was willing to leave it to the respective supreme courts of the States, a proposition which was made only to be rejected, although strictly in accord with the spirit of the Constitution.

Owing to a determined effort by nearly half the delegates to the Republican national convention, which met June 5, 1880, in Chicago, a ticket of "dark horses," James A. Garfield, of Ohio, and Chester A. Arthur, of New York, was nominated on the thirty-sixth ballot by a combination of Blaine, Sherman, and miscellaneous delegates. The platform denouncing the solid South, was for high tariff, equal rights for negroes, and restricting Chinese immigration. A Greenback Labor convention met four days later and nominated a ticket on the platform of complete money control by the government, land-grants to railways, and the restriction of Chinese immigration. The Democrats met in Cincinnati on June 22d, called for home rule, honest money, tariff for revenue only, with permission to buy ships abroad and restore American commerce. They likewise denounced the "fraud" which made Hayes President and the use of federal troops at polling-places. They nominated Winfield S. Hancock, of Pennsylvania, and William H. English, of Indiana. In the ensuing elections the National and scattering votes numbered three hundred and twenty thousand, and the Republican popular majority, or rather plurality, was less than a thousand. Nevertheless, they had a majority of over fifty in the

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electoral college. In the Lower House of Congress they had a majority of one over 136 Democrats, 9 Greenbackers, and 1 independent. There was a solid South, but they secured New Jersey, California, and Nevada in the North. The second session of Congress lasted from December 6, 1880, to March 3, 1881. It did nothing but count the electoral vote, declare that Garfield and Arthur had 214 and were therefore elected. Both were sworn into office on March 4th.

In the Senate, which was immediately summoned in extra session (March 5th-May 20th), there was a tie between the parties with two independents, one of whom was a Democrat and the other a Republican; hence the Republican presiding officer, the Vice-President, had the casting vote. In the midst of debate and unseemly wrangling over patronage both Senators from New York resigned on the plea that their dignity was outraged by certain appointments regarding which the President did not consult them. The Senate was now Democratic; it confirmed the nominations laid before it and adjourned. To this occurrence, which in itself emphasized the imperative necessity of civil-service reform, was added another, the climax of horror—*viz.*, the murder of the President by a disappointed office-seeker. Arthur became President, the Senate convened a second time in extra session, confirmed the new nominations, and adjourned. The first regular session of the Forty-seventh Congress began on December 5, 1881, and adjourned August 8, 1882. There was, as before, a tie in the Senate and a majority of one for the Republicans in the House. This was a situation favorable to public morality: the slender tenure of power by a party, and an amazing general pros-

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perity. The message took high moral ground; legislation on the whole followed its behests. There was a new and fairer system of apportionment based on the census of 1880, an anti-polygamy bill and a Chinese exclusion act, all of which became laws. So, too, a river and harbor bill ("pork barrel"), which was passed over the veto. The surplus revenue was so enormous that a commission was appointed to revise the old war tariff still in force. In 1881 at the centennial of Yorktown British representatives were present, and the British flag was officially saluted by order of the President.

The State elections of 1882 were in the main favorable to the Democrats, who were promising tariff reduction. The second session of the Forty-seventh Congress (December 4, 1882-March 4, 1883) passed a satisfactory civil-service-reform measure and provided the necessary funds for its faithful execution by Arthur, who thus secured the recognition of that question as a factor in national politics. A bill lowering the tariff became law, but it still produced superfluous revenue and left the question of further reform an open one. The real interest of the year was in the emergence of a new social, economic, and political principle, combination in place of competition, on the side of capital the "pool" and the "trust"; on that of labor secret, oath-bound organization and the black-list or boycott respectively. The Knights of Labor, having enrolled fifty-two thousand artisans, announced as its further aim the inclusion in its membership of every hand-worker, so as to protect the humblest laborer against the slightest injury by a universal strike, if necessary. The new Congress, Forty-eighth, had a Republican majority of two in the Senate, but a minority of

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about eighty in the House. The first session lasted from December 3, 1883, to July 7, 1884. Its time was occupied by three measures, one to regulate the succession to the presidency in case of deaths, one to distribute federal funds among the States for educational purposes, and the further reduction of the tariff. Not one became a law; and the tariff stood at the head, in spite of the new labor and capital movement, as the leading measure of the parties in the presidential struggle. There was wide-spread discontent both as to boycotting and labor matters generally, but even more as to the administration of justice in local courts; for this latter cause there were several days of rioting in Cincinnati.

Four conventions claiming to be national were held during the summer to nominate a presidential ticket. The Republicans convened June 3, 1884, in Chicago, adopted a frankly loose-construction platform: protection, control of corporations by strict regulation of interstate commerce, national labor bureaus, civil-service reform. Charging their opponents with ballot frauds in the South, they nominated James G. Blaine, of Maine, and John A. Logan, of Illinois. The Democrats at St. Louis, July 8, 1884, were equally pronounced, avowing strict-construction views. But while promising to reduce the tariff, they evaded the whole question of protection, a most significant landmark in party history. They roundly charged the Republicans with maladministration, adhered to civil-service reform, set forth a new so-called continental policy for closer relation with other American states, and nominated Grover Cleveland, of New York, with Thomas A. Hendricks, of Indiana. The other conventions were unimpor-

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tant in numbers and representative character, though very interesting as showing American political instinct. The "Peoples" wanted cheap money, the Prohibitionists the entire suppression of traffic in alcoholic drink; the latter also desired woman suffrage. Each polled about a hundred and fifty thousand votes; the Democrats a majority of about sixty thousand in a popular vote of ten million. Since the State of New York was Democratic, though by a slight majority, the electoral votes were 219-182. Congress was Democratic by forty majority in the House, Republican in the Senate by six. Nothing was done in the second session of the Forty-eighth Congress (December 1, 1884-March 3, 1885), though it originated the proposal to increase the Cabinet by a Secretary of Agriculture. Cleveland and Hendricks were duly inaugurated, and the usual extra session of the Senate confirmed the President's nominations.

There have been over forty different party names employed at one time and another in our history, and of these since 1832 the broad and strict constructionists have regularly held truly national nominating conventions; seven others have at one time and another held "national" party conventions and nominated presidential tickets; the others were dissenting factions, exerting only temporary influence. The convention system seemed, after forty years of trial, to be firmly established. In its consideration a careful distinction must be drawn. Many so-called presidential tickets have been made by little and unimportant groups of political agitators without attracting general attention. But the minor parties have served important uses by extended agitations profoundly influencing the broad

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and narrow constructionists, and for them the convention system has proved invaluable as a test of strength. Their movements have been purely voluntary, with no money or moral support supplied from without. The case is far different with the two great parties; their convention system has been elaborated and strengthened in almost direct proportion with the growth of presidential power. Exactly as the executive office has annexed and exercised prerogatives implied though not expressed in the Constitution, there has expanded the influence of federal patronage, exercised either directly or through members of Congress. This has quickened the activities both of actual office-holders and in a still higher degree of those who desire public office. Hence the intense zeal of professional politicians and their friends. The local and State committees perpetually stimulate the activities of party organization, a machinery which finds its product and expression in local and State conventions, appealing to voters by statements of principle or platforms and by nominations for local office. These in turn select delegates to the national conventions, which perform the same service for both parties in national politics. Thus federal patronage merges into State, and that into local influences to such an extent that the President has become not merely the Chief Executive, but likewise the recognized head of his party for the whole nation. In this way legal and extra-legal institutions have so blended that there has arisen a present ever-spreading and rather imperative demand for the regulation by law of such party activities as directly impinge on the conduct of government. And in this a beginning has been made. These remarks are apposite here be-

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cause the new President was, under the working of the Civil Service Law, deprived of much patronage and forced to try conclusions with his party in the profound modification of the old system.

XXIX

READJUSTMENT OF PARTY POLICIES

1885-1893

Civil-service reform—The labor movement—Regulation of interstate commerce—Dangers of surplus revenue—Confusion of party issues—Public finance and extravagance of government—Beginnings of socialism—Reform of the ballot—Growth of socialism—Change in the nature of the presidency.

WITH the growth of the country had come the expansion of the "spoils" system; and its scandalous abuses, culminating in the murder of a President, not merely justified the civil-service reform, but stiffened the resolve to enforce it. Cleveland faithfully observed the spirit and, with negligible exceptions, the letter of the Pendleton Act, so that for the first time in over half a century there was on his induction into office no sweeping change in the non-political offices. The influence of this policy in weakening party cohesion and organization was far greater than the event proved to have been necessary. From December 7, 1885, to August 5, 1886, the first session of the Forty-ninth Congress, with a substantial Democratic majority in the Lower House and a Republican Senate, occupied itself with important matters. The death of Hendricks, the Vice-President, impelled the settlement of the presidential succession: after the Vice-President the secretaries of the departments in the order of their establishment. The Senate demanded papers from the President containing reasons for certain suspen-

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sions and removals from office; these he refused to furnish as a matter of political tactics, and when the terms of the incumbents expired his nominations were sent in as new ones, and of necessity confirmed as a matter of routine. The House prepared a tariff bill, but it was not urged for consideration; there could be no possibility of its passage through a Republican Senate. The great achievement of the period was the complete organization of the Civil Service Commission on a non-partisan basis, the reform of the examining-boards, and the perfection of a system of promotions. The President was earnest and sincere in co-operation, warning all civil servants against political activity. His course embittered machine politicians of both parties, and in the Senate there was open hostility. But the nation approved. Meantime the membership of the Knights of Labor had grown to six hundred thousand, and the violent agitators among them announced themselves as anarchists. There were bloody riots, especially in Chicago, where seven ringleaders were tried for murder and executed. The boycott was pronounced by the courts to be conspiracy, and penalties were fixed for it. Cleveland recommended a permanent Commission of Labor as a court of arbitration for all disputes.

The legislation of the second session of the Forty-ninth Congress (December 6, 1886–March 3, 1887) was abundant and important. The question of American fishermen in Canadian waters reached an acute stage, and measures were taken either for stern retaliation on Canada or for amicable settlement with Canada's political metropolis, Great Britain. The final decision in disputed elections for President was left to the respective States; in

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any failure to agree, and only then, Congress could go behind the returns. The system of free postal delivery was greatly expanded, debased silver currency was called in, to Indians were granted lands in fee simple and in severalty, private claims were to be settled by a special court, to a dependent veteran of the Civil War was granted twelve dollars a month as pension,¹ the tariff bill of the previous session was defeated, the tenure-of-office law repealed, and polygamy was made criminal. But the greatest and most vital measure was the establishment of a commission to enforce the Interstate Commerce Act, which forbade discrimination in freight charges, rebating, and pooling. The Commission has power in special cases to fix a less proportionate rate for a long than for a short haul. This was a long step in expanding and asserting the power of federal over State government; at least by substantially removing from the latter its control of important transportation. There was some complaint about both the merit system of office tenure and the enforcement of the law; but the "spoils" system was really shattered and federal regulation of what so vitally affects the great business of the country has in practice commended itself. The labor movement was divided: the Knights were discredited and lost two hundred thousand members, many of whom organized and maintained the American Federation. In the middle of September the centenary of the Constitution was celebrated with tremendous éclat. Under Cleveland it seemed as if a federal state was the solution of American difficulties.

The worst trouble was the accumulation of surplus

¹ Vetoed by President Cleveland.

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revenue under the protective system, and the then prevailing business prosperity. The Treasury surplus was not far from \$125,000,000 already, and was steadily increasing; the temptation to unscrupulous legislation for its distribution was enormous. This fact was vigorously stated in the President's two most important messages, and his remedy was the abolition of duties on raw materials and on the imported necessities of life. The last elections had somewhat reduced the Democratic majority in the House, but had nearly obliterated the Republican majority in the Senate. The first session of the Fiftieth Congress was the longest so far held (December 5, 1887—October 20, 1888), but its work was unimportant. The effort at tariff reform failed, but the Treasury was authorized to purchase government bonds with the surplus. Twenty-two millions were appropriated for rivers and harbors, the largest "pork barrel" so far created. Measures passed, with the necessary appropriations, for an All-American Congress and an International Marine Conference, to devise a system for the better protection of life and property at sea. A treaty to regulate the Canadian fisheries failed of confirmation by the Senate under the influence of those most directly concerned. Finally a stringent Chinese Exclusion Bill became law. Civil-service reform was promoted by the inclusion of many offices under the act and by further improvements in its efficiency. Labor troubles were insignificant. The greatest advance of the period was made by the adoption in certain important States of new laws securing secrecy for the ballot. They worked well in diminishing bribery, and have since been almost universally adopted by other States. There was throughout

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the land much agitation likewise of the total-abstinence question, and great advances were made in preventing crying abuses in the sale of intoxicating drinks.

Three national nominating conventions were held. The Democrats, at St. Louis on June 5, 1888, re-nominated Cleveland by acclamation and selected Allen G. Thurman, of Ohio, for the vice-presidency on the first ballot. They sturdily commended the administration for its efficiency and for its fruitful labors in the cause both of civil service and tariff reform. Even the ever-growing number of protectionist Democrats could assent to "the reduction and correction of the burdens of taxation." The party strength, however, lay in the party leader, and it was his personal foes who in the election defeated him by party manipulations in the State of New York, on which State the decision turned, as it had in the previous one. The Republicans, at Chicago on June 19th, after much divergence of feeling and opinion, nominated Benjamin Harrison, of Indiana, and Levi P. Morton, of New York, charging the administration with a weak foreign policy, abuse of the veto power, and attacks on the American system of protection. Better the repeal of all internal taxes than the surrender of any part of this. Civil-service reform had been a Republican measure; let it be extended and destroy the "power of official patronage." The use of the "negative," or veto, was a favorite Jeffersonian doctrine, and Cleveland had employed it as no predecessor had done, but mainly on private pension bills. The Prohibitionists held a national convention, named a ticket, and polled two hundred and fifty thousand votes. There were four other minor tickets an-

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nounced—Equal Rights, United Labor, Union Labor, and American; all combined, they secured less than one hundred and fifty thousand votes. Carrying New York by a fair majority, the Republicans elected their candidates. The second session of the Fiftieth Congress opened December 3, 1888, and closed March 4, 1889. The new Department of Agriculture was created; four States, North and South Dakota, Washington, and Montana, were added to the Union; there was another failure to modify the tariff, due to factional differences of the Democrats; and substantial progress was made in extending civil-service reform, national and State. Harrison and Morton were inaugurated on March 4, 1889. Owing to the electoral system, the popular vote for President did not correspond to the result, the Democrats having a hundred thousand majority.

This was likewise true in Congress, where the Republican majority was fourteen in the Senate and twenty-one in the House. The long session of the Fifty-first Congress lasted from December 2, 1889, to October 1, 1890. All departments being Republican, the Speaker of the House was authorized to count as making for a quorum every Representative present in the chamber, disregarding his answering to the roll-call or not. This was to hasten business and prevent filibustering. The device succeeded, but it created a new type of presiding officer, a virtual dictator, after the President the most powerful man in the federal government. The positive curse of a great surplus now became manifest. To a commission headed by William McKinley was intrusted the creation of a tariff which should remedy this crying evil and yet maintain the principle of protection. The act known by his name admitted

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free whatever did not compete with home industry and laid enormous duties on whatever did; on certain of the free goods the President might lay duties should the country of origin seem unduly to tax our exports. With this principle of reciprocity there opens a new phase. Other important pieces of legislation were the Sherman Act to maintain a bimetallic currency, and a Dependent Parent and Disabilities Pension Act, recommended by Harrison, which almost doubled the number of pensioners and has in the sequel raised the annual expense of pensions to \$160,000,000! Extravagance went further; so lavish were the appropriations for a new navy and other purposes as to turn the great surplus into a deficit. There was wide-spread discontent with this billion-dollar session. Idaho and Wyoming were enrolled as States, and the lands of Oklahoma hitherto reserved for Indians were now opened as a part of the national domain for settlement.

From this time dates the recklessness of contemporary legislation and the swift growth of social, local, and national extravagance. Public opinion heartily supported Harrison's execution of the civil-service laws; the gratifying increase of population shown by the eleventh census was twenty-five per cent. (the negroes only fourteen); and the gradual shift to the westward of the population center as far as southern Indiana was a fact widely noted and commented. But to the farmers it appeared that protection was one-sided and their own burden too heavy. Their Alliance and the Knights fused interests in Kansas and swept the State, securing a Senator and five Congressmen. Thus encouraged, the coalition known as Populist developed

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a national character and demanded unlimited coinage of silver and the loan of government funds to farmers on the security of their products and their land. The second session of the Fifty-first Congress lasted from December 1, 1890, to March 3, 1891, and was for urgent reasons very economical, except in a large appropriation for the new navy. There was a new apportionment of representatives, and a new immigration law was passed to prevent the dumping of idiots, insane, criminals, and paupers upon our shores. Both the system of the federal judiciary and the Interstate Commerce Law were amplified. In passing the International Copyright Law tardy justice was done to foreign authors. To satisfy the noisy and insistent agitators for free-silver coinage a futile Monetary Conference was summoned and met at Brussels; the principle of arbitration was used to settle the seal-fisheries dispute with Canada; the unhappy gap in our system between State and national control was exhibited when Louisiana would make no reparation for Italian subjects killed in the New Orleans riots of the year, and Congress was forced to make the necessary appropriation to retain the good will of Italy. We had much trouble and perplexity in securing reparation from Chile for sailors of the *Baltimore* killed in the streets of Valparaiso. The elections of 1890 resulted in overwhelming defeat for the party in power. The "outs" cried economy; but, as the sequel proved, their desire was to share the spoils.

The Fifty-second Congress had in the Senate a majority of six Republicans; in the House their members had fallen to 88; with nine Populists there were 235 Democrats, a majority over all of 138! The first session lasted from December 7, 1891, to Au-

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gust 5, 1892, but, of course, no strictly party legislation could be enacted. The Congress, however, appropriated funds for the Chicago exposition to celebrate the fourth centennial of the discovery of America by Columbus, secured a degree of reciprocity with Canada, and approved eleven reciprocity treaties with foreign lands; it likewise slightly modified the McKinley tariff and admitted foreign ships to American register under conditions which have proved of little or no avail. It was reported that political bribery had ceased under the working of the civil-service law and commission; and even in the navy-yards and Indian service the abolition of patronage was secured. Ballot reform made wide progress, twenty-four States having adopted secret voting, and under the stringent operation of the Anti-Polygamy Act the Mormons renounced polygamy, at least its open practice. State legislation was generally non-partisan; many States forbade both boycotting and blacklisting; many declared eight hours a legal day's work.

There were held four national conventions: Republican at Minneapolis, June 7, 1892; Democratic at Chicago, June 20th; People's at Omaha, July 2d; and Prohibition at Cincinnati on June 29th. The Republicans renominated Harrison, with Whitelaw Reid, of New York; the Democrats Cleveland, with Adlai E. Stevenson, of Illinois; the Populists James B. Weaver and James G. Field; and the Prohibitionists John Bidwell and J. B. Cranfill. Tariff for protection on the one side or for revenue on the other and sound money were the issues, the Republicans trimming on the latter issue, the Democrats taking firm ground. Both agreed as to civil-service reform, reciprocity, and the restriction of immigration. The

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Populists asserted a very complete doctrine of socialism: cheap money, government ownership of public utilities, graduated income tax, and the condemnation of lands held by aliens and corporations for speculative purposes. The Prohibitionists were for direct taxes, woman suffrage, Sunday observance, and most of the Populist program. Together they polled nearly two million votes. The other ten million were divided between the leading parties, with the Democrats nearly four hundred thousand in the lead. Cleveland's ticket was elected; in the coming Congress both Senate and House were Democratic. There was wide-spread unease and discontent; all was fair on the surface, except that serious labor riots occurred, suppressed only by bloodshed. The financial situation of the country was in most unstable equilibrium, owing to the reissue of paper money and the continued purchase of silver, with nearly \$500,000,000 of circulating money intrinsically worthless but redeemable in "coin"—that is, gold. The second session of the Fifty-second Congress (December 5, 1892–March 4, 1893) declined to ratify a treaty annexing the Sandwich Islands, where the monarchy had been overthrown by revolution, but it ratified a doubtful extradition treaty with Russia, and returned to the terrible extravagance of its predecessor, making total appropriations of half a billion dollars. Cleveland and Stevenson were duly inducted into office.

The original ideal of the presidency, the "great and good man outside and above party," had never been reached; Washington even was partisan. By a slow process of substitution quite another had now been attained, a wise and strong premier representing not a party majority, but the popular will. Feeble-

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ness and vacillation condemn the statesmen, but vigor and decision exalt even the mediocre politician. Into this election there entered what has since persisted—the popular judgment of the man, a confidence in his integrity and his fearlessness. There was on record the promise of his first administration, its fruition would surely be found in the next; it seemed certain that his party must follow, not control. Probably his wise but unsparing use of the veto power and his successful relegation of the Senate to its own sphere in 1885 endeared him to the nation above all else, though his rugged character and blunt righteousness were most distasteful to professional politicians, even those of his own party. In any case, Cleveland and the succeeding presidents have played a novel rôle; they have been the dictators of their *parties*, not partisan creatures, and their appeal for support has been distinctly national rather than local or factional.

XXX

THE SPANISH WAR

1893-1901

The panic of 1893 and the repeal of the Sherman Act—Disordered finance—Bond sales—Discredit of the administration's fiscal measures—The Venezuela dispute—The silver question—The Dingley Bill—The Cuban War—The colonial question—The Isthmian Canal—Cuba free and independent—Continuity of party doctrines.

THE fallacy of a closed economic state was never more clearly exhibited than in the effect of our currency and money heresies. Behind a swollen paper and silver issue with slight intrinsic value was the national credit only. It shrank just in proportion as the national obligations increased; foreigners and Americans alike began to turn securities into gold; the reserve fund diminished just as gold was hoarded, and fell to ninety-seven millions. Cleveland, at the very opening of his second administration, was confronted with a disastrous panic which caused widespread distress. American optimism, however, was such that the Columbian Exposition at Chicago, a most elaborate and costly enterprise, suffered not at all in resources or public attendance. To allay the panic the Fifty-third Congress was called in special session (August 7–November 3, 1893) for the purpose of ending the purchase of silver. The struggle was long and bitter, because as a substitute the influential Representatives from the silver-mining States demanded free coinage of the metal on which

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they believed their prosperity to depend. Finally, the repeal of the Sherman Act was passed unconditionally, further restrictions were laid on Chinese immigration, and Congress adjourned. There being a Democratic majority in both Senate and House, that party was now for the first time in thirty-two years fully in control of government. Since the politics of the hour turned almost solely on prosperity, and business did not revive, their control was short.

The new tariff bill (Wilson) was a compromise with the protection Democrats, and had tacked to it an income tax. It became law without Cleveland's signature, and satisfied no class. The Supreme Court pronounced the income tax unconstitutional. Reciprocity was abolished, and the last reconstruction measure, the Federal Election Laws, was repealed. Further efforts to coin more silver, the seigniorage, or difference in value between bar and coined silver purchased under the Sherman Act, met with failure. The first regular session of the Fifty-third Congress (December 4, 1893–August 28, 1894) was arid of any sound legislation and discredited the party in control. The gold reserve fell daily, the fiscal measures could not meet current expenses. Cleveland ordered, therefore, four separate bond sales, increasing the national debt by two hundred and sixty-two million dollars, a necessary patriotic act, but used by Republicans to exhibit Democratic inefficiency in office. Justice compelled the restoration to the Mormons of confiscated property, and the Civil Service Commission, with the President's support, successfully extended the merit system. Women obtained the suffrage in Colorado, but the fact created no Utopia. Radical agitators set on foot marching armies of so-called unemployed; there

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were far-extended strikes of coal-miners and railway employees. Since the latter inhibited the federal mail service, the President sent federal troops to support the State militia in maintaining order; his policy infuriated labor agitators, but met with general approval. Fit penalties were meted out to the disorderly, and the unemployed found employment. Yet all this unrest, the new government loans, and the stagnation of trade combined to discredit Democratic rule.

During the second session (December 3, 1894-March 3, 1895) there was only routine legislation. Further supplies were voted to the new navy; the project of a canal across Nicaragua was supported; vain efforts were made to reform the currency by stopping the issue or reissue of legal-tender paper money. The sentiment for unlimited silver coinage steadily increased; so did the deficit of revenue; a new loan was sold at 104½, and the bonds rose at once on 'change to 118, a fact which gave evil tongues a chance for malicious statements as to the men and methods concerned in their issue. The State elections of 1894 were overwhelmingly Republican, giving them 135 majority in the House of Representatives. The credit for much of this result was falsely claimed by a secret oath-bound American protective association, formed to thwart foreign and Roman Catholic influences in politics. Neither party would affiliate with the society.

Both Senate and House were Republican in the Fifty-fourth Congress (first session, December 2, 1895-June 11, 1896). Their first action was organization, and the House adopted the most extreme measure as to its quorum, authorizing the sergeant-at-arms to bring absentees into the chamber

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until enough were present. This with the other rules completed the absolute and tyrannical power of the Speaker; in the control of legislation he was an autocrat, for to his appointment every committee member owed his place. The legal and moral power of the presidency was for a time paralleled by that of the Speaker. While there was no legislation of any importance beyond the routine, yet for a time it seemed as if a definition of the Monroe doctrine would be attempted, and war with Great Britain was almost invited in defense of it. For fifty years Venezuela had disputed its boundary line with British Guiana, and now, enormous undeveloped wealth having been discovered in the debatable land, the question became acute. Our government proposed arbitration, and when that was refused we appointed a boundary commission of our own to settle a line within which any attempt at British jurisdiction would be regarded by us "as a wilful aggression on our rights and interests." This threat produced a mild money scare, and there was another bond issue; but Congress appropriated funds for the commission, and failed in efforts to strengthen the national finances or define the Monroe doctrine. Both Houses voted to recognize the belligerent rights of the Cubans in rebellion against Spain, protested against the outrages in Armenia, and appropriated funds for three new battle-ships. But strict neutrality was enforced in Cuba, and the differences with Great Britain, both as to Venezuela and the Canada fisheries, were peacefully adjusted, we agreeing that fifty years of peaceful occupation gave possession and prescriptive right on the Venezuelan border; the line itself was fixed by arbitration. Utah became a State in January, 1896.

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No stable financial reform was possible without a final decision on the silver question, as to whether the nation would make itself responsible for the price of any commodity, however important. The Republican national convention, on June 16th, in St. Louis, nominated William McKinley, of Ohio, and Garrett A. Hobart, of New Jersey, declaring for protection, reciprocity, and silver coinage only by international agreement. A few delegates protested and withdrew. The Democrats, on July 7th, in Chicago, nominated William J. Bryan, of Nebraska, and Arthur Sewall, of Maine, declaring for free coinage. On the 22d the People's party, in St. Louis, arranged for fusion with the Democrats, but entered a formal protest against Sewall as a capitalist by naming Thomas E. Watson, of Georgia, in his stead. The sound-money Democrats, on September 2d, in Indianapolis, declared for the gold standard, naming J. U. Palmer, of Illinois, and S. B. Buckner, of Kentucky. The Prohibitionists split on the free coinage of silver, naming two tickets, and the Socialist Labor party still another. The campaign was exciting, and the Republicans won by a majority of ninety-five in the electoral college, of six hundred thousand in the popular vote. The minor parties combined polled about a quarter of a million. The second session of the Fifty-fourth Congress (December 7, 1896–March 4, 1897) accomplished no legislation. Cleveland's message foreshadowed the coming conflict with Spain regarding Cuba; the Nicaragua Canal Bill was withdrawn; and an effort to regulate immigration failed. McKinley and Hobart were duly installed.

The Fifty-fifth Congress was instantly summoned in extra session (March 15–July 24, 1897) to consider

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the national finances. There was a nominal Republican majority in both Houses, but the Senate was for free silver, while the House was largely the reverse. All Republicans, however, were protectionist, desired to exchange the Wilson bill for a protective measure, and were convinced that more revenue was needed. The desired bill was ready, having been long in preparation, and was at once presented. It was debated for three months and amended in the Senate, though the House passed it almost immediately. It became a law by the President's signature on July 24th, and was known as the Dingley Tariff, from the name of its framer. The silver question was postponed, and when the first regular session of the Fifty-fifth Congress (December 6, 1897-July 8, 1898) was opened the Cuban question overshadowed all else. For several years the island had been convulsed with rebellion; it was well-nigh impossible to preserve neutrality; and the long disorders had turned it into a pest-hole from which frightful disease was communicated to our shores. It constituted an international nuisance which Spain could not abate by her cruel measures. Nevertheless, diplomatic negotiation had been well-nigh successful in providing for peaceful settlement through a virtual intervention by us when a United States battle-ship, the *Maine*, was destroyed by explosion in the harbor of Havana. A government commission of inquiry reported, what subsequent investigation has proved, that the cause was a mine set by unknown persons, and such was the storm of popular indignation that on April 11th McKinley asked from Congress authority to intervene by force; on the 21st war was virtually declared against Spain. Congress provided the necessary revenue. On May 1st was

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fought the naval engagement of Manila Bay; on July 3d that of Santiago; on the 7th Hawaii was annexed. We disclaimed any intention of exercising jurisdiction over Cuba; but in fact the Spanish colonies were at our disposal and under military control—Cuba, Porto Rico, and even the Philippine Islands, after Aguinaldo's capture.

This fact opened a new era in the history of American politics and party government, and for fourteen years questions of foreign policy completely overshadowed domestic affairs. Party lines were for a time loosely drawn except on the strict construction of the Constitution as to non-contiguous dependencies. The question of an Isthmian Canal instantly became urgent. A treaty with Spain was ratified, but with great difficulty, on February 6, 1899, whereby that country relinquished the sovereignty of Cuba and ceded to us Porto Rico and the Philippines, accepting from the United States a "solatium" of twenty million dollars. The hesitancy of Congress was due to this inauguration of a colonial policy. What could a federal state do with lands and populations far distant and having nothing in common with Americans or their institutions? This was left an open question, and the President appointed various commissions to study all the phases of the problem. The Democrats were true to their principle of granting independence to every liberated people, the Republicans to the promise of independence for Cuba. The second regular session of the Fifty-fifth Congress passed all the needed acts for the executive measures (December 5, 1898–March 4, 1899), the elections approved the conduct of the party in power as a whole, though they slightly diminished the Republican majority

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in the House, and when the Fifty-sixth Congress met in its first session (December 4, 1899–June 7, 1900) free silver was no longer a question. The bi-metallist commission of 1897 had met with no success in foreign lands, and when India refused to open its mints for the free coinage of silver the question was settled; at least for a time. A currency act of March 14th established the gold standard and provided for refunding the national debt at lower rates of interest. The Porto Rican Act of April 12th was passed by those loose-constructionists who maintained that the island was a possession, not a part of the United States. It organized civil government on the colonial model and regulated the insular customs for the benefit of the island. The Philippines were left under military control until order should be established.

By far the most important question before the country was the diplomatic status of the Isthmian Canal question. Exactly fifty years earlier we had negotiated the Clayton-Bulwer treaty with Great Britain, binding ourselves to joint action with her in such an enterprise. It was now proposed to substitute the Hay-Pauncefote treaty, permitting the United States to build and control but not to fortify such a canal. This was laid before the Senate as a modification of the old treaty, but that body insisted it was a new treaty, and insisted, moreover, that it must embody the right of "securing by its own forces the defense of the United States and the maintenance of public order." This Great Britain refused. While a conference summoned by the Czar of Russia was sitting at The Hague discussing measures to make war alike more difficult and humane, and arbitration much easier and more effec-

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tive, there was a sorry condition in the world: the British were at war with the Boers, we with the Filipinos, and the Boxer rebellion was devastating China. These facts turned the attention of our people to the affairs of the farther East, and awakened their interest in unfamiliar things. Foreign policy as a world power, expansion, and the nature of control were issues which largely determined party action, though free silver and the rise of co-operation in vast combinations of labor and capital were likewise insistent questions.

The Republicans in convention at Philadelphia, June 19, 1900, declared for the gold standard, for ship subsidies, for a canal built and protected by government, for the policy of independence for Cuba, with the largest measure of self-government for other "rescued peoples," nominating McKinley, of Ohio, and Theodore Roosevelt, of New York. The Democrats, at Kansas City, on July 4th, denounced imperialism, the military retention of Cuba, and trusts; demanded territorial government for Porto Rico, the independence of the Philippines under our protection, free silver, and the canal; they nominated William J. Bryan, of Nebraska, and Adlai E. Stevenson, of Illinois. The issues were therefore imperialism and free silver. There were announced tickets or platforms and nominations from ten other sources, all of which are negligible—*viz.*, Gold Democrats, Farmers' Alliance, Silver Republicans, Anti-Imperialists, Social Democracy, Socialist Labor, Prohibitionists, Union Reform, United Christian, and Populists. These all polled less than four hundred thousand votes; in the remaining thirteen millions and a half the Republicans had about eight hundred thousand majority, with thirty-seven

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majority in the electoral college. In the second session of the Fifty-sixth Congress the war taxes were repealed, and the Cuban Constitutional Convention was notified that we would retain coaling and naval stations, and would intervene if necessary to preserve their independence or maintain a real government; that the new republic could make no treaty impairing its independence, could not open its door to any foreign power, or contract excessive debts. All these stipulations were embodied in the Cuban Constitution. After sitting from December 3, 1900, to March 3, 1901, Congress adjourned. McKinley and Roosevelt were inaugurated.

Thus, after the opening of a new epoch in American party history, the parties remained substantially divided as before, except that the loose and strict construction of the Constitution now turned, not about State rights, but about expansion; regarding the tariff, which was still a local question, the spread of manufactures over the South modified the Democratic doctrine into one not of free trade or even of revenue only, but into a discussion of how duties might be reduced; socially, moreover, the great industrial fortunes acquired under high tariffs had created a new plutocracy struggling for social distinction. It remained Republican, and somewhat eclipsed the patrician class of an earlier time who had been mostly Democrats. In neither of the great national parties could the wage-earning class get a hearing for their demand that government should control business, and the factions just enumerated furnished a nucleus for the agitation of questions so far European, comprehensively designated as socialistic or pure democratic, or socialistic democracy,

XXXI

THE LATEST PHASE

1901-1909

Insular decisions and the Isthmian Canal—Cuba and the Philippines—Intervention in Panama—Party nominations and platforms—Transformation of the presidency—The public and the President—The elections of 1908—Present state of parties.

SIX months after his second inauguration, on September 6, 1901, President McKinley was foully assassinated in Buffalo by an anarchist. He died of the wounds eight days later, and Roosevelt became President. During the summer, and again two months after his accession, momentous decisions as to the insular possessions of the United States were handed down by the Supreme Court. The Constitution authorizes Congress "to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States," guarantees certain civil rights such as trial by jury in criminal cases, and prohibits the taxing of exports from any State. This last, it was held, does not prevent the enactment of a tariff between the United States and its territories or possessions. These being no longer foreign countries, imports from them were no longer subject to the regular tariff. As to the guarantee of civil rights, the prevalent customs of the metropolis and its possessions being different, the powers of Congress, as in the two other matters, are commensurate with whatever exigencies

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may arise. These decisions leave a free hand for legislation in regard to unforeseen colonial administration. The first session of the Fifty-seventh Congress lasted from December 2, 1901, to July 1, 1902. The Senate chose a *pro tempore* presiding officer from its own members, ratified a treaty with Great Britain granting the exclusive right of construction, regulation, and management of an Isthmian canal under guarantee that it shall be neutralized and open to all vessels on equal terms and shall not be blockaded; shall enjoy immunity from attack; that no right of war shall be exercised or act of hostility committed within it.

Roosevelt's personality was vigorous and aggressive, his mind constructive and daring. In a public life beginning with early youth he had carefully studied the history and genius of the American people, and was already the shrewdest party manager of the country. Fully aware of the President's influence in party and party government, his first message presented to Congress with bold confidence an elaborate program of legislation, a mandate from the people and the party. Accepting his judgment as correct, Congress followed the lead of the Executive. The Philippine tariff applied all the provisions of the one then in force with foreign lands, but provided a reduction of one-quarter for articles produced in the archipelago. All the proceeds were to go to the Philippine treasury. With Porto Rico there is free trade because local taxes support the island government. The Chinese Exclusion Law was extended to the islands; a republican form of independent civil government was established in Cuba under the Constitution made by the Cubans, and the military occupation ceased. By act of July 1, 1902,

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provision was made for the colonial government of the Philippines: an appointed commission, Governor and Vice-Governor, with four executive department chiefs, and the highest judges; an elective representative assembly with restricted suffrage; the matters of land-titles, franchises, and bond issue for municipal improvements and the purchase of church lands were all carefully studied and guarded. Military occupation continued. Quite the most important legislation of the session was the appointment of a commission to construct the Isthmian Canal, the authorization of bonds for the purpose, the appropriation of forty millions to purchase the property of the French Panama Company, the grant of power to the President to acquire a canal zone from Colombia if possible, and if not, then from Nicaragua or Costa Rica. In these transactions the country had only a mild interest, except as the Democrats attacked the Philippine policy and administration for party purposes. But the President's recommendation for curbing evil combinations of capital, "bad trusts," concerned the people deeply. There was a slight diminution in the Republican majority of the new House of Representatives.

The second session of the Fifty-seventh Congress (December 1, 1902–March 4, 1903) responded further to the President's urgency by passing a law to simplify procedure against those violating the Interstate Commerce Act or erecting any monopoly in either interstate or foreign commerce. A further act was directed against the evasion in any form of the rates established by the Interstate Commerce Commission; it substituted heavy fines for the imprisonment of transgressors and gave broad powers for the gathering of evidence. Furthermore, there

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was established a new executive department, that of Commerce and Labor, with a bureau and commissioner of corporations, to whom was given the right of inquisition into corporations with interstate connections, their capitalization, property, management, and their affairs generally. The Fifty-eighth Congress held two regular sessions continuously (first, November 9–December 7, 1903; second, December 7, 1903–April 28, 1904). The President's promotion of legislation continued. An act of reciprocity with Cuba, valid for five years, was passed by Congress and signed by the Executive; under it we give a reduction of one-fifth on imports from Cuba, and that republic a similar one varying according to the articles from one to two fifths. The preliminaries to beginning work on the Isthmian Canal had been rushed with characteristic energy by Roosevelt. A treaty with Colombia for the purchase of the Canal Zone was ratified by our Senate but rejected by theirs—presumably to secure a larger sum of money openly or secretly. They relied for success on a previous treaty with us guaranteeing both their sovereignty over and the neutrality of the Isthmus. The State of Panama revolted against its federal government, and on November 3, 1903, declared its independence. This was promptly recognized (November 6, 1903) by President Roosevelt, and our forces on the strip surveyed for the canal were ordered to forbid the approach to it within fifty miles of either Colombian or Panaman troops. This ended the Colombian attempt at the subjugation of rebellion, the right of the Zone was purchased from Panama, and the treaty was ratified by both sides on February 24, 1904, fourteen Democratic Senators voting with the Republicans.

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An effort to indemnify Colombia failed, though supported by all the Democrats. The President was reproached with bad faith to Colombia and an illegal act of war; he rested his action on the obligation to preserve the neutrality of the Isthmus and the imperative construction of the canal.

The Republican national convention met at Chicago on June 21, 1904, indorsed the administration, nominated Roosevelt, of New York, and Charles W. Fairbanks, of Indiana, adhered to the gold standard, and announced a new doctrine of protection: that it should measure the difference in the cost of production at home and abroad. This means that industries necessary to make America self-sufficient were now established, and strictly is not protection against foreign competition, but an economic safeguard against lowering the standard of living for the American workman. The Democrats, at St. Louis, July 6th, dropped free silver, assailed the colonial policy, demanded Philippine independence under our protection, and pronounced for gradual lowering of the tariff until it produced only revenue. They nominated Alton B. Parker, of New York, and Henry G. Davis, of West Virginia, the former of whom announced that he would accept only on the understanding that the gold standard be considered firmly and irrevocably established. This alienated the free-silver men. Four other tickets were put in the field: Socialist, Prohibition, Populist, and Social Labor; these together polled eight hundred thousand votes, of which half were Socialist, a striking phenomenon. The great parties, however, polled nearly thirteen million, and the Republicans had two and a half million majority, a striking vindication, as it seemed, of the administration. The elec-

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tors stood 336 to 140. The third session of the Fifty-eighth Congress (December 5, 1904–March 3, 1905) was largely engaged with routine unpartisan measures. Roosevelt formulated and enforced two policies: the conservation of natural resources and a radical modification of the Monroe doctrine. In furtherance of the former, Congress placed the national forest reserves under the Department of Agriculture; but the Senate refused to ratify a protocol with San Domingo which was negotiated to secure collection of Dominican customs revenue by American agents for the satisfaction of European creditors. The President's principle was that to prevent permanent occupation of any American soil we were bound to see that the just claims of creditor nations were satisfied. It was not until 1907 that the Senate grudgingly yielded. Further, the administration had negotiated arbitration treaties with Great Britain, Germany, and other powers, referring differences to The Hague Tribunal and limiting the reference by a special "agreement." To this word the Senate objected, substituting "treaty," which would make it a party to the arbitration and to the delimitation. This Roosevelt refused as a needless hindrance, and the antagonism of Senate and Executive was marked. Roosevelt and Fairbanks were sworn into office on March 4, 1905.

The Fifty-ninth Congress was strongly Republican in both branches, and with the President's energetic temper to urge and exhort in matters of policy and legislation the activities of the administration were very fruitful; the Executive became the initiator of legislation as never before, and this centered the popular interest upon him rather than on party issues. The first session lasted from De-

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ember 4, 1905, to June 30, 1906. Scandals connected with the management of great financial corporations (insurance companies) shocked the public and prepared the way for federal control of industrial and mercantile organizations as well as of the railways. Roosevelt's message foreshadowed the method adopted and now in force. Common carriers were made responsible for death or injury to their employees without regard to the plea of contributory negligence; all meats are subject to inspection by the Department of Agriculture; all foods must be pure and branded in terms describing them as they actually are offered for sale; the Interstate Commerce Commission prescribes all railway rates, the forms of railway accounting, and the form of control by examining records, a control extended to express and sleeping-car companies, to oil-pipe lines, and to enforcing penalties for rebating. An expedited form of judicial hearing insures promptness in the Commission's ruling and in appeals against them. It was determined further to enlarge the navy, and to build the Isthmian Canal with locks, and not at sea-level. In the congressional elections of the autumn the country gave its approval to the administration, modifying but slightly the Republican majorities. In New York State, where the corporation question was most acute and where that party was charged with corrupt alliances, the election really turned on the personal characters of the candidates, and the Republican, supported with open zeal by the administration, was chosen by a small majority in a State naturally Democratic. The Cuban government was so impotent that there was a second military occupation. Japan, having asked for intervention, her war with Russia was

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ended by the Treaty of Portsmouth under Roosevelt's superintendence; but Japan was deeply wounded by restrictions on the attendance of Japanese children in the public schools of the Pacific coast. The compromise effected left rancor behind, and the color question was further sharpened by disbanding "without honor" an entire army battalion of negroes, some of whom had engaged in grave disorder but could not be detected. The President roused considerable disaffection in all these matters, even in regard to the Portsmouth treaty, which many considered friendly intervention for the benefit of nations not especially friendly to the United States.

His message to the Fifty-ninth Congress in second session (December 3, 1906-March 3, 1907) was a document portentous in length, containing a vast program of legislation, the gist of which was that the government should not conduct business, but should supervise it in the interest of the nation. Its principal items were: federal license of corporations; graduated income and inheritance tax; employers' liability; prohibition or regulation of child labor; control of court power as to injunctions in labor disputes; forbidding corporations to make campaign contributions; limiting working hours on railways; naturalizing Japanese; and enforcing treaty stipulations on State authorities. In making these recommendations he had sounded public opinion with judgment, for several were enacted into law, with modifications, of course, and the others have since engaged the attention of Congress. In fact, Roosevelt personified the policy of regulating industrial business: and conservative Republicans could not accept his policies. The cleavage began which

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is now almost complete in one and manifest in the other party—conservatives *vs.* radicals. If the race and tariff questions could be settled or put aside there would be a completely new alignment; but of this there is no prospect, and party government has therefore entered upon an entirely different phase. The administration had secured enormous *éclat* by the acquisition of the Panama strip, and there was no inquiry as to any share American conspirators might have had in the Panaman revolution; its *éclat* was enormously increased by the globe cruise of the fleet, carried to a successful conclusion. The first election in the Philippines was successfully held and civil government was established. But in October a severe panic occurred, and for weeks the banks suspended cash payment. Some said capital was terrorized by Roosevelt's radicalism, others that capital was conspiring to discredit him; but the saner kind saw in it the result of reckless speculation. Oklahoma was, on November 16, 1907, admitted as the forty-sixth State.

In his message to the Sixtieth Congress (first session, December 2, 1907–December 3, 1908) the President urged such of his policies as were not yet embodied in law, especially corporation control, a federal inheritance and income tax, and, referring to the "rich man's panic," a new currency law. He proudly said there was no longer any complaint that law could not be invoked against wealthy offenders. Congress had experienced a revulsion of feeling and refused his program. It re-enacted the Carriers' Liability Law, authorized two instead of four new battle-ships, and provided for an elastic currency by granting special favors in a contingency like the last to associations of national banks; but it disregarded

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recommendations as to labor-unions and judiciary, conservation of resources and internal improvements. In the matter of arbitration treaties the Senate insisted that in the "previous agreement" it should share. Among others concluded and ratified was one with Japan, a symptom of better feeling.

The Republicans, at Chicago, on June 16th, nominated William H. Taft, of Ohio, and James S. Sherman, of New York, demanding tariff revision for protection, "duties to equalize the difference between cost of production at home and abroad, plus a reasonable profit." The Democrats, at Denver, on July 7th, nominated William J. Bryan, of Nebraska, and John W. Kern, of Indiana, charged the administration with extravagance and multiplying public offices, demanded a federal income tax, exclusion of Asiatics, and a modification of the power of courts to issue injunctions in labor disputes. This last was the real issue, for Taft was a pronounced and vigorous opponent of weakening judicial powers. The Republicans in the ensuing elections had a majority of one and a third millions; the Socialists, Prohibitionists, Populists, and Social Laborites together polled eight hundred thousand, of which half were Socialist. Congress remained strongly Republican. The second session of the Sixtieth Congress (December 7, 1908-March 3, 1909) passed the usual appropriation bills and instituted a court of inquiry into the President's action regarding the negro troops. As a result many were reinstated. The usual recommendations were repeated in the message, but Congress resented certain phrases about their attempt to limit the use of secret-service money as implying that members feared investigation of themselves and sullenly refused to follow Roosevelt's lead.

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Taft and Sherman were inaugurated on March 4, 1909.

Aside from the new party alignment already described certain other novelties may be noted in contemporary American politics. We have called attention to the growth of presidential power and the reasons for it. Such power implies personal distinction of some sort. The incoming administration was to suffer in the general esteem because Taft, though a fine administrator, honest, clear-headed, and far-sighted, did not catch the public fancy as a fearless leader. His predecessor may have been meteoric, but he was daring; he accomplished results which were epochal, and gave a halo of glory to his period of service. He was largely instrumental in the nomination and election of his successor, and absented himself from the scene as a hunter-naturalist in remotest lands for a year. This, too, delighted the multitude. But it is one thing to propose and secure legislation, another to enforce the laws. This was to be the task of the President in office, and, inasmuch as its prosecution hurt "the interests" of many, he started with a heavy handicap. The combined enthusiasm for Roosevelt's personality and the yearning of business men for former liberties in conducting their affairs coalesced to produce an icy coldness toward the man in power. Congress was, therefore, able to reassert its share in government by dethroning the Speaker of the House, and presidential politics did not prove a paramount influence in legislation. The courts resumed their activities and became an issue in politics, having stern critics and enthusiastic apologists. The attack on the judiciary reached portentous dimensions and appeared for the first time as a party shibboleth,

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Many predicted a complete reconstruction of parties and party issues, but never was party discipline more necessary in the conduct of federal government in America. The situation proved most interesting, and the outcome is even yet uncertain.

XXXII

SOCIAL CHANGE AND PARTIES

1909-1913

The social upheaval—State paternalism—Attitude of the new Executive—The Payne-Aldrich tariff—Legislation of the Sixty-first Congress—Legislation of the Sixty-second Congress—The state of Spanish America—The Panama Canal Act—The change in domestic politics—The presidential campaign—A minority victory—The Taft administration.

MANY among the latest generation of voters have for some years entertained ideas antipodal to those of their predecessors. This younger stratum of citizens has been taught that the exercise of the suffrage is an inherent and not a granted right; that values produced by the community belong to it, and must be returned to it by a changed form and degree of taxation; that promoters had overcapitalized corporations and pocketed enormous profits; that directors were more concerned to enrich themselves and pay large dividends to shareholders than with the honest management of their corporations; that stock-jobbing was manipulated in the interests of a "money trust"; that large combinations (or trusts) evaded the provisions of the Sherman Act, enacted to prevent restraint of trade; that capital had substituted co-operation for competition, to the serious detriment of laboring-men and small producers, especially the farmers. Whatever of truth there was

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in these allegations, they became the stock in trade not merely of honest and well-instructed reformers, but likewise of radical demagogues, "muck-rakers," and partisan leaders desirous of change. Simultaneously there was a portentous rise in the cost of living, as measured by money units which were disproportionately abundant and had suffered a steady decline alike in purchasing-power and, consequently, in intrinsic value. This was world-wide, but the pinching effects were keenly felt by the great majority of American voters and influenced their opinions profoundly. All classes seemed absorbed in pleasure-seeking, and the very rich went to extremes of ostentation and luxury hitherto unknown. The tide of philanthropy, moreover, had been steadily flowing, and had now reached in America heights of liberality nowhere and never before attained. A great storm of pity for sufferers, whether crippled by drink, by accident, by disease, by any form of disability, mental or physical, had swept over the land, and the incapacity even of such abounding private generosity to deal with the far more immense disability of weakness in any form turned the attention of those who sought a remedy toward the securing of State aid through legislation. In many important districts, notably the largest cities, the tidal wave of immigration had increased the number of voters far beyond the capacity of communities to resist the old-world conceptions which were the inspiration of such voters at the polls.

No social agency privately organized could grapple with the gigantic discontent, which disdained pity, scorned philanthropy and charity, demanded self-indulgence as a right, and clamored for a leveling down of pinnacle fortunes. What were once

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considered virtues—thrift, self-denial, self-discipline, respect for authority, faith, trust, reciprocal self-help regardless of the state, method—all these secular virtues fell into disesteem. Posterity must look to itself, what ancestry had accumulated in law, institutions, morals, and resources may be squandered for the pleasures of the hour, and “after us the deluge.” Representative government had proved a failure; direct immediate control must be assumed by the multitude, at least within the limits of possibility; as, for example, by initiative, recall, and referendum. Matters could not be worse; anything is better than what is. The remedy must be found in attacks on monopoly, on great transportation and industrial corporations (the trusts), on vested interests of every kind. Of all such combinations the state is the greatest, the one and only absolute master; and state control based on state investigation and state interference must be organized, with the possible goal of public ownership of public utilities. At once the old question of strict or loose construction becomes acute: is the necessary legislation an affair of the separate States or of the federal government? In what is called “saving the state,” women, as yet deprived of the suffrage, may not share except in a few Western States, and then provided only that such socialistic legislation be, on the doctrine of strict construction, restricted to the States and hence removed from the federal sphere. Undoubtedly, this fact has accelerated and intensified the force of the movement to secure votes for women by federal legislation. If the suffrage be an inherent and not a granted right, women already have it, must be permitted to exercise it, and the right must be embodied in the fundamental law; the leading

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suffragists feel, no doubt, that this is progress along historical lines, because woman has a higher sense of justice than man. The capitalistic system, they asseverate, has physically "virilized" the female of the race, has at the same time created new economic conditions for her, and so has fitted her to wield an equal equipment in the struggle for life and for the survival of the fit.

Every one of the conceptions enumerated had penetrated the minds of all enlightened men, producing an anxious foreboding among supporters of the old order, but commanding the enthusiastic support of many who reprobated its evils. The substitution of direct democracy for representation; votes for women; state protection and aid for all the weak, the incompetent, and the inefficient—these were the conscious strivings of a large minority among the voters and their leaders, a minority so large that at times it became a majority. About them every other so-called reform question turns—prohibition, control of immigration, state regulation of everybody's business. The Utopia which representative government could not create was to be brought in by the direct participation of all adults, women as well as men. The shining goal of complete equality was always before the minds of Americans throughout the territories of the United States: it has been only a question of the degree in which for this end general control may supersede personal will, initiative, ownership, belief, and conduct, whether to the entire or to the partial extinction of individual conscience by the collective will; to the merging of individual into demagogic responsibility. That this process has been accelerated, and that a long stride toward the realization of its ideals has been

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taken, is a fact which underlies a remarkable tendency to embody social political changes apparent throughout the thirty-first administration, and reaching further intensity in its successor. What is desired appears to be, not equality before the law, but laws which shall create and maintain equality.

The new President was a man of sterling character and wide experience as lawyer, judge, administrator, and politician. He was neither so magnetic nor so impatient as his predecessor. Desiring a swifter justice than could be found in the working of the courts, Roosevelt had arraigned them as antiquated; Taft's instinct was to reform the system, but to preserve its values and its prestige as a safe anchorage in the storm of social revolution. The new President had been the intimate friend of his predecessor; like him, he felt the responsibility of leading his party, and, like him, he made numerous long journeys, instructing, admonishing, and sometimes reproving; on Congress he exerted a strong pressure; his messages were voluminous and his fashioning of legislation almost dictatorial. His chief cares were the defense of protection on a new basis, that of equalizing cost of production with an American standard of living; the reform of procedure in the criminal courts; the reconstruction of the Supreme Court personnel by his splendid appointments to fill the many seats which fell vacant during his term of office; the furtherance of international arbitration; and the legislation regarding tolls on the Panama Canal, then approaching completion. On all these questions his attitude commanded the respect, if not the assent, of friend and foe. But, conservative by nature, he was, rightly or wrongly, considered lukewarm regarding measures of social reform;

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including both the policy of conserving natural resources for the community, and that of state control over private or semi-private business. The vulgar fetich of corporation rule was the detestation of the masses; he could neither enlighten nor guide them; and to this fact was due the temporary split in his party which prevented his election for a second term.

The Sixty-first Congress assembled in special session on March 15, 1909, and sat until August 5th. In the Senate there were 32 Democrats and 60 Republicans, eight of whom proved to be insurgents; in the House 172 Democrats, and 219 Republicans of whom large numbers were ready for insurgency. The session was called to meet a wide-spread, insistent demand by Republican voters for the revision of the Dingley Tariff. For it this Congress substituted that known as the Payne-Aldrich, which became a law on the day of adjournment. By its provisions rates on raw materials and on a few manufactured articles, such as paper pulp, were somewhat diminished, certain specific duties were substituted for ad valorem ones, and petroleum was admitted free. On high-grade papers and cottons duties were increased. Since it was thought that under its operation revenue would be diminished, a tax of one per cent. was laid on corporation incomes of five thousand dollars and more. Further legislation was a grant for the census of 1910, and of twenty-five thousand dollars a year for the President's traveling expenses—to such an extent had the passion for speechmaking and the winning of popular approval at various centers of the Union carried the Chief Magistrate's necessary outlay that popular sentiment demanded some explanation of how the cost of special cars and trains for him and his suite was

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being met. If such activities had become a part of the President's duty the nation should bear the charges. But in the sequel these all—even the tariff legislation—proved to be minor matters. At the opening of the session a powerful group of able congressmen manifested discontent with the rules of the House and their application by the Speaker, Joseph G. Cannon, who was denounced as tyrannical and arbitrary in the exercise of his almost boundless control of legislation. This discontent was further heightened by the declaration of the President's many speeches that he was loyal to the policy of conserving the people's natural resources for the people, while at the same time his Secretary of the Interior was under suspicion of conniving with corporations and private persons who were grabbing them. He likewise publicly insinuated that the publishers of newspapers and periodicals were embittered against the new tariff bill because paper was not on the free list, and announced his personal support of the proposition for a federal income tax, an idea abhorrent to many influential people. In both Houses groups of active and able members announced themselves as openly insurgent against the ruthless control of legislation by the old guard of managers. This "insurgency" assumed such dimensions that the Executive threw his personal influence into the scale for the control of legislation to an extent never reached before, not even in the previous administration. Before long it was manifest that there was serious division in the ranks of the Republican party, based not merely on rivalry for leadership, but on profound differences of principle and attitude toward the sphere and duties of federal government—on one side conservative

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strict construction, on the other advanced opinion, centralization, and loose construction.

The two regular sessions of the Sixty-first Congress lasted respectively from December 6, 1909, to June 25, 1910, and from December 5, 1910, to March 3, 1911. By a combination of Democrats and insurgents the House rules were changed so as to destroy the Speaker's control. The important legislation of these sessions tended to enlarge and strengthen federal control in all interstate relations. Railways were required to introduce all modern appliances for the protection of employees, and were also forbidden to grant passes or to transport commodities owned by themselves; interstate commerce was more elaborately defined, and the powers of the Interstate Commerce Commission were greatly enlarged. A new Commerce Court of five judges was authorized and set up. To prevent traffic in prostitution, even the purchase of tickets for the transportation of loose women from one State to another was made a criminal offense. Bankruptcy laws were made uniform throughout the Union; the powers of the Attorney-General in prosecuting trusts were enlarged; a postal savings system was inaugurated; and to the President was given authority for the conservation of water-power on public lands. A territorial government for Hawaii was provided; an appropriation was made to remove the hulk of the *Maine*; a peace commission was established; and a stringent law for publicity as to campaign contributions was enacted. While the volume of legislation in the second session was smaller, it had the same tendency, and was even more important. The degree of home rule in the Philippines was extended; provision was made for a tariff board,

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whose three members were to be named by the President, and whose duty was to take testimony as to the differences in the scale of living and the cost of production at home and abroad and recommend legislation. Arbitration treaties with eleven nations were proclaimed during this second session, and also Hague treaties covering the most vital questions of international law, including those arising from aerial navigation. The weightiest legislation was that concerning judiciary reform. The old Circuit Courts were abolished, the States divided into districts, each with its own federal court, and in nine new circuits there were established courts of appeal. For customs cases a Court of Appeals was organized; and, the powers of the Commerce Court being more sharply defined, it was constituted the court of appeal from rulings by the Interstate Commerce Commission. It may be that the most far-reaching act of this Congress was the recommendation of a Sixteenth Amendment to the Constitution empowering Congress to tax incomes. The legislature of Mississippi, almost at the same time, formally suggested a Seventeenth Amendment providing for the direct and popular election of Senators. Centralization and uniformity were the watchwords of the hour. The South outran the North and the West in its hostile attitude toward the Constitution as it had been, and toward strict construction. A new class of voters had in every Southern State stripped the great landowners and even the rich industrials of power. This inexperienced body longed for speedy remedies for all human ills, and looked for the word of national power to its central seat in Washington.

How powerful the new influences were was manifested in the political color of the Sixty-second Con-

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gress, which also had three sessions, lasting respectively from April 4 to August 22, 1911, from December 4, 1911, to August 26, 1912, and from December 2, 1912, to March 3, 1913. The Senate was still Republican (60-32), but the House was Democratic (228-162), with one Socialist. The reapportionment under the thirteenth census, that of 1910, provided for 433 members in the House; and the law regarding campaign contributions was made more strict and comprehensive, forbidding Senators to expend more than \$10,000 and Representatives more than \$5,000 in election expenses. An effort toward reciprocity with Canada was made by proposing a lowering of duties on imports from the Dominion. Arizona and New Mexico were admitted by act of Congress as States on August 21, 1911: the latter became active as such on January 6, 1912, the former on February 14th of the same year. Laws were made relating to radio-telegraphy for passenger-ships; to the rank of ensign for graduates from the Naval Academy; to a Bureau for protecting the interests of children, of miners, and of laboring-men, each in the proper department; to an eight-hour day for federal employees; to the protection of seals; to land reclamation; to denouncing the treaty of 1832 with Russia; to the regulation of interstate liquor traffic and sealed car-loads of all commodities moving by rail from State to State; to the amendment (and serious crippling) of the Pure Food Act; to improving details of Alaskan and Philippine government; and to interference of State with national courts. There were made the annual appropriations for the navy, and a very extravagant river and harbor bill was passed. Of signal and almost epochal importance were the provisions for

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a parcels post; the Panama Canal Act, exempting our coastwise shipping from tolls; and the law compelling railways to furnish data for the physical valuation of their properties. All three of these measures have subsequently become matters of embittered party controversy. During the period of this Congress a treaty of commerce was negotiated with Japan, and an agreement reached with England regarding the capture of seals. Arrangements were also made for the arbitration of the Newfoundland fisheries question. The number of Israelites in America has reached such dimensions that theirs was the predominant influence in demanding from Russia respect for the passports of naturalized Russian Jews, a demand hitherto and since rather contemptuously disregarded by Russia.

The year 1910 was the centenary of Mexican independence. For nearly thirty years that country had enjoyed a strong government, with peace and prosperity, under the rule of Porfirio Diaz, who, in the guise of a constitutional president, was a military dictator. He proclaimed his re-election for the eighth time, and took the oath of office on December 1st. America sent a special ambassador to share in the festivities of September, lasting throughout the month, and Diaz announced amid the general jubilation a forward policy of material and educational improvements. Great sums of foreign capital were invested in Mexican coal and oil lands, in her railways and government bonds. There had come into existence within her borders a body of great proprietors, immensely rich, the blood in whose veins was preponderatingly Caucasian; but of the fifteen million inhabitants twelve were of almost pure aboriginal blood, and felt themselves

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sorely oppressed in matters of wages as well as of civil and political rights. This discontent was heightened by rivalry between the more aristocratic northern and the fairly democratic southern states of the Mexican Union. In November there was a poorly organized insurrection under Francisco Madero, and it was fiercely put down by the national troops. But rebellion could not be suppressed, and by March 8, 1911, it had reached such dimensions that twenty thousand American troops were mobilized on the frontier, five cruisers were despatched to Galveston, and two thousand marines landed in Guantnamo. The Administration announced a policy of what was thus an armed neutrality. The action was viewed abroad and by many at home as a notification that we would maintain the Monroe doctrine by force if necessary. If there were to be a Mexican collapse, no over-sea power, east or west, was to profit by it. The internal affairs of the neighbor state have gone from bad to worse. Diaz quickly fled, Madero was murdered, a general of mixed white and Indian parentage sits as a Nationalist in the presidential chair at Mexico, and another leads the so-called Constitutionalist forces from victory to victory. With great tact and skill the President managed throughout his term to avoid intervention on the one hand, and, on the other, to allay foreign bitterness over the fact that we could not protect our own and foreign interests and would permit no one else to try. The successor of President Taft found a most delicate and perplexing situation, a nice balance of unstable equilibrium, to which for more than a year he added no overweight, except in so far as by a refusal to recognize the Nationalist leader as at the head of a *de facto* govern-

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ment he virtually allied himself with the opposing interest.

The international relations of the country were otherwise even more perplexing, although outwardly relations of friendship and amity were maintained in all parts of the world along the lines of our well-tried policies. There were powerful upheavals in China, where the monarchy was overthrown; the emperor of Japan died, and his successor mounted the throne with no disturbance of the rather strained but still firm relations with America. Russia took the denunciation of our treaty calmly, since apparently her position is thereby strengthened. With all European powers, great and small, we stand on a footing satisfactory, but not without elements of instability in several cases. The President's efforts for reciprocity of trade made difficult the domestic policies of several foreign powers; almost at the moment of success Canada rejected with some scorn a plan successfully negotiated and adopted in Washington. But at the bottom of the general uneasiness was our position, taken in the Panama Canal Act, that American coastwise shipping was to be exempted from payment of tolls. At home there were serious differences of opinion. What may be styled the "intelligents" remembered how gladly in our years of weakness we had accepted British co-operation in Isthmian matters; how, accepting the double rights and privileges, we had considered each successive treaty as linked to an honorable understanding with Great Britain, and the circumstances under which we had obtained the opportunity to build the Panama Canal, under a single but binding requirement which we gladly accepted as understood—to wit, that there should be no dis-

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crimination in the matter of tolls. But the words of the treaty could be otherwise read by those who were ignorant and indifferent regarding its history. Declaring that the phrase "vessels of commerce" excluded both British and American coasters, they reasoned, and not without support from careful students, that, subject to a perpetual rental, we owned the canal strip outright; that the banks of the Canal were American territory; that we were paying the total cost, guaranteeing neutrality by maintaining garrisons and building fortifications—in short, that the whole enterprise in all its unprecedented gigantic dimensions was our very own to administer as we chose. Great Britain in particular and the other great mercantile powers resented our action, and would not officially join in the great fair at San Francisco which was to celebrate the opening of the Canal. It was charged by foreign journals that America was faithless to her national obligations, demanded the control of the entire Western Continent, forbade the natural expansion of European population and trade, and is an insatiate land-grabber; that it had thus upset the balance not only of European, but of world power. The uneasiness of our South American neighbors has been largely due to our brusque and haughty manner, so detested by what we call American Latins—to wit, the populations, partly pure European, but mainly of various color shades, south of our border; but this inborn distaste for us and our unwelcome protection is perpetually increased by imported opinions, manufactured in Europe to maintain its lucrative trade. With this serious situation party politics had much to do. Exaggerated and noisy patriotism is a most valuable party asset; neither party has a monopoly of it, but

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each in turn, as it gains or loses ascendancy, makes use of the dangerous tool for its immediate necessities.

The transformation of domestic politics had largely influenced legislation, but what was styled the "new nationalism" was not content with the degree of state paternalism attained in the new laws and their administration; not even with the constitutional amendments as to the federal income tax and the direct election of Senators. Promoters of "popular government" were successfully legislating the parties into legalized existence by the statutes of many State legislatures enforcing the institution of the direct primary, which is intended to give all voters a voice in the choice of candidates for State office and overthrow the representative convention system. Even the national conventions are to be turned into mere recorders of the people's choice by means of the Presidential Preference Primary. The direct primary is simply the portal to direct legislation by means of the initiative, the referendum, and the recall. The theory is very simple, the practice very cumbersome. Woman suffrage, already granted by ten States, has become a national issue. Parties in most States are still private associations, but they are stripped of the full power of self-government in nearly all. Reformers desire accurate registration of voters, with a form of ballot encouraging independent voting and discouraging the illiterate vote.

What is known as the short-ballot is intended as a conservative device. The movement for its adoption is very strong. Success would mean the establishment of committee government, local and national, because the few elected to major offices would

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select all their innumerable subordinates, as is already the case in the long list of cities and towns now governed in a similar way. The currents of agitation which on the one hand bring every adult into the difficult business of government and on the other remove the rewards of political activity far from general enjoyment are apparently further intensified by meetings of State governors for consultation as to uniformity of legislation. There have been a number of such meetings, and in them the "new nationalism" seems to find another powerful support.

For the presidential campaign which culminated in the defeat of the Republican party it is impossible to find any precedent in our history. It may be said to have had its inauguration almost simultaneously with that of President Taft, when a coolness between him and his predecessor was manifest. After a period of agitation the cleft between the two wings of the party widened, herculean efforts for leadership in each awakened bitter personal animosities, and as early as February the candidacy of Roosevelt was announced by an inchoate party which called itself Progressive and demanded the expansion of all Roosevelt's policies of industrial and social regulation, together with the "new nationalism" in matters of conservation, direct popular legislation, and uniformity in State procedures. Thereupon began a nation-wide and bitter struggle for the control of the convention which met at Chicago on June 18, 1912. Out of 1,076 seats 254 were contested, and of these the National Committee awarded 238 to Taft delegates. Roosevelt, arriving in Chicago to take charge of his followers, announced in a phrase of his favorite avocation that

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he felt "like a bull moose," meaning ready for the fray, and this gave a party symbol and slogan. Four days after convening, the Progressive leaders denied the validity of the convention as representative and refused to vote. Taft and Sherman were nominated by 561 and 597 votes, respectively, the Roosevelt following being constructively 451. The platform adopted by the majority of delegates declared for a government of laws not of men; that is for representative democracy; for an unhampered judiciary, the prosecution of trusts, revision of the currency system, conservation of natural resources, and a strong navy. These last were "progressive" paragraphs, to be sure, but of slight emphasis, and the platform as a whole was a commendation of the administration. The Democratic convention met in Baltimore on June 25, 1912. Within its ranks there was likewise embittered rivalry of leaders and principles. But the long-awaited opportunity to win afforded by the Republican schism preserved a unity between radicals and conservatives. After fierce struggles as to contested seats and rules Governor Woodrow Wilson of New Jersey was nominated for President on July 2d by 994 votes; the nomination of Thomas R. Marshall, of Indiana, for Vice-President caused no feeling, and both were made unanimous. Wilson was an avowed "progressive," and the platform called for revenue tariff, federal remedies for State evils, federal income tax, direct election of Senators, presidential primaries, trust prosecution, a single presidential term, and free transit on the Panama Canal for American coast-wise shipping. It was a weird mixture of strict and loose construction declarations. On July 8th a call was issued for a Progressive convention; it met on

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August 5th in Chicago. Theodore Roosevelt, of New York, and Hiram Johnson, Governor of California, were the nominees. The name of Progressive party was selected for an organization claiming to have been born of the "nation's awakened sense of justice" and aiming, by abolishing the "invisible government," "to destroy the unholy alliance between corrupt business and corrupt politics." The platform compactly printed made a substantial pamphlet. Its provisions comprehended all social and political changes desired in the interest of popular legislation and government: direct democracy, minimizing constitutional checks, assistance by the State for all who feel themselves weak or oppressed. It was the announcement, in pointed paragraphs attacking specific evils, of the new gospel of popular infallibility. There were the usual nominations of the Socialist, the Socialist-Labor, and the Prohibition parties. Wide differences appearing between the two wings of the Socialists, it was with difficulty that their platform was framed; but compromise was effected, and they presented for the moment a united front, intellectuals and anarchists under one banner.

The election resulted in a victory for the Democrats, who secured from a total of 531 electoral votes no fewer than 435; yet the whole popular vote was over fifteen million, while that of Wilson was only six and a quarter, about one and a third millions fewer than the combined votes of Republicans and Progressives. He was a minority President; but, such is our system and such the American habit of mind, probably for that reason none the weaker as national Executive. As leader of a party in power which apparently could work only under his guidance his word would be a fiat. The outstanding

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feature of the election was the unforeseen strength of the Socialists, who polled over nine hundred thousand votes. On March 4, 1913, Wilson and Marshall were duly inaugurated, and, since both Houses of the Congress were likewise Democratic, the country awaited the rule of a party so infrequently in complete power since the close of the Civil War.

In reviewing the Taft administration it appears that his failure to secure a second term was due to the social revolution mentioned at the beginning of this chapter. He considered many of the questions bruited by social reformers as unripe for political action by the federal government, and deliberately elected to lead the more conservative Republicans of the East and North, trusting that the sanguine liberals of the Center and West would eventually fall into line. But the Payne-Aldrich Tariff was not a fulfilment of promises, and the activity of his attorney-general in enforcing the Sherman anti-trust law and prosecuting influential offenders, whether "labor" or "capital," alienated, or at least made lukewarm, the support of both "labor" and "big business." Such blunders as he made were not minimized or retrieved by able friends. The record of completed legislation already given shows a combination of the newer paternalism and the older conservatism which, abstractedly considered, marks the path of wisdom. But there were many halts, much friction, and at times ineptitude in his manner of rule; and his personal attitude was unattractive alike to the grave and to the gay among the leaders of opinion and the wielders of the ballot. His large following was mainly opportunist. He was strictly a constitutional President; he left the

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Supreme Court great by reason of his admirable appointments; he enforced the criminal clauses of the Sherman Act, promoted alike civil-service reform and international conciliation. He failed in his powerful reciprocity campaign only by the utterances, studiously offensive to our northern neighbor, of a maladroit and bombastic foe. The economies of his administration turned a deficit of fifty-eight into a surplus of fifty million dollars. The prickly and dangerous question of relations with our distracted southern neighbor he handled with such delicacy and skill as to prevent intervention, peaceful or military. The stupendous and successful enterprise of the Panama Canal he conducted with generous support and kept it unsullied by the breath of scandal. The powers of government, executive, legislative, and judiciary, he left in a nicer equilibrium than had been known for many years, if ever.

XXXIII

THE DOMINANCE OF THE PRESIDENCY

1913-1914

Significance of the election returns—The President's conception of his office—His ascendancy in legislation—His use of patronage—Class legislation—The tariff, currency, and income tax—Effect on party government—Policies announced—Direct government—Foreign Affairs and the Panama Tolls Act—The Monroe doctrine—Mexico and *de jure* government—Probable abandonment of the Monroe doctrine—The revolution of theory and effect on parties—Novelties in the labor struggle—Roads and highways—Immigration and assimilation.

THE election returns do not show a political revolution comparable to the social upheaval. Inasmuch as the Wilson vote was more than a hundred and ten thousand smaller than that of Bryan in 1908, it would appear that many radical Democrats voted the Socialist ticket. Many independent voters, Republican as well as Democratic, voted for Wilson. In not one State outside the solid South did Wilson receive a majority over Taft and Roosevelt combined. His administration, therefore, had no decisive mandate of any sort from the people; its minority was measured by nearly two and a half million votes. The Taft vote measured the conservatism of the loose-construction, high-tariff Republicans. The Roosevelt vote was a measure in part of the candidate's personal popularity, in part of the great number who felt the passage of the

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Payne-Aldrich Tariff to have been a breach of faith, and in part of reformers: Utopians and Moderates alike. These four millions, less than a third of all actual voters, probably represent in numbers the distaste for representative government in nation and national parties which had been aroused among high-minded people because of its abuses; as to activity and passionate conviction they are vastly more efficient than the numbers indicate. They may again coalesce with the old-line Republicans, but a party thus composed cannot be identical with the old, for it would be loose construction and national to a degree hitherto unforeseen. As earlier explained, the advocates of "most-government" will be associated against those of "least-government," under whatever name. This would be a retort to the Socialists, probably divide them, and segregate native from foreign adherents. Yet the election of Wilson was highly significant in so far as it made him the bond of union in a reunited Democratic party, which, as it had been from the outset, was still composed of persons entertaining every shade of opinion about the relation of the individual to the state in the abstract, but representing a unity of view regarding social classes and the changed relation of the State governments to the federal.

Shortly after his inauguration the President summoned the Sixty-third Congress to meet in special session on April 4th, and it sat a hundred and forty-one days, until August 22, 1913. The first regular session began on December 1, 1913. The President at once announced himself as Chief Magistrate of the country; and head of his party, which had a clear majority in the Senate of four and in the House of forty-seven. No sooner was organization completed

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than he appeared in person at a joint session and read a short message. This reversal of long custom was startling, but on the whole it pleased the nation. We have carefully traced the ever-increasing power of the presidency; the new incumbent appeared to announce its culmination, for this act restored the use of the message to a degree of efficiency of which the interminable documents read monotonously by a clerk to impatient Congresses had long deprived it. Of academic training, he had been both a university administrator and a State governor. In both positions he had been rather reticent, but had displayed a dominating will with more or less success. The Congress responded to his relentless behests without question, and settled down to the work laid out for it with commendable zeal.

The constitutional amendment providing for the direct election of Senators was validated, the number of midshipmen at Annapolis was largely increased, and for railways the arbitration of labor disputes was legalized, with provision for the enforcement of decisions. The President withheld, or slowly doled out, the immense patronage of his office in such a way as to make the party majority entirely docile. He signed a Sundry Civil Bill appropriating three hundred million dollars, in spite of a rider forbidding the use of any funds raised by it for prosecuting labor-unions or farmers' organizations. To palliate this act of class legislation he declared the rider to be merely an expression of opinion by Congress, which would not prevent the enforcement of equal justice by funds already in hand. Asserting his devotion to the merit system he also signed the Urgent Deficiency Bill, which by one rider abolished the Commerce Court, and by an-

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other provided for deputy collectors of national revenue and deputy marshals, both alike exempt from the civil-service laws—an enormous increase of important patronage. Both these signatures deeply stirred the public. Criticism of the President's course in these matters was, however, speedily overshadowed by the vital questions of the tariff, the currency, and the income tax. Such has been the absolute party control exercised by the President through his powerful self-assertion and the adroit manipulation of patronage that in these three matters he obtained and signed the bills which he desired and for which he is held responsible.

The Underwood Tariff Bill reduces duties by something more than a third, and puts many raw materials as well as sugar virtually on the free list, opening American markets to foreign competition. The Glass-Owen Currency Bill creates an asset currency, provides for a central board of seven members to be appointed by the President, and for regional reserve banks in from eight to ten cities; for a gold reserve of forty per cent. against outstanding notes, for a graduated tax should the reserve fall below the minimum, and for a rediscount of commercial paper at the discretion of the governing board. A gold reserve of thirty-five per cent. is required against deposits, and all national banks must subscribe for stock in the nearest regional bank or forfeit their charters. Government bonds are to be retired within twenty years. This law is expected to prevent the accumulation of money power in any single center. The Income Tax Law was frankly a piece of class legislation, exempting all personal net incomes under three thousand dollars and taxing the excess, according to amount, from one per cent. for

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the grade above twenty thousand and under fifty up to twenty-two per cent. for the grade above five hundred thousand. Minor pieces of legislation were: for building a government owned and managed railway in Alaska; for regulating the opium traffic; and for granting to the City of San Francisco without money consideration the water-right in a portion of the Yosemite national domain. The Madrid legation was made an embassy.

These pieces of legislation produced an immediate effect on the nature of party government and party responsibility. Inasmuch as the bills, especially that establishing the income tax, are not scientifically drawn, the interpretation of the law has required from the administration many arbitrary rulings which are really legislative in character. For such confusion as has arisen, as well as for the irritation springing from business timidity while they are on trial, Congress points to the President as the cause, while the President lays the burden on the Congress. An avowed party leader, moreover, must be a politician rather than a statesman, and his most difficult task is to preserve party harmony. It is to this end that the new President made the concessions to labor and farmer organizations; disregarded both the merit system and the inviolability of the national parks; and secured new patronage of the first importance by the creation of new offices under the Currency and Urgent Deficiency bills. Party harmony and discipline are based on party rewards, or expectation of reward rather, under this administration. The Democrats had come to power by a division of their opponents. The leader and President as well as his adjutants felt little respect for the Baltimore platform, especially the one-term and

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Panama tolls paragraphs. Tariff and banking reform, improvement of industry and agriculture, sanitation, cheap water-power, conservation and reclamation, self-government and recognition for dependencies, and direct legislation—these are the policies so far announced. Meanwhile uncertainty prevails about further legislation supplementary to the Sherman Act and the degree of government control not only of public and semi-public, but of absolutely private business; whether railways may raise their rates, or the merchant marine be subject to the federal control as to the payment of seamen, number of crew, life-saving apparatus, and general equipment. There are also pending other questions of less importance, but votes indicate the current, and there is an attitude of uneasy expectancy among all business men which has produced an unprecedented stagnation. With basic conditions entirely sound, this halt is as ever attributed to the party in power. There can be no single guiding impulse in Congress, since in both Houses the party caucus has asserted its supremacy as to committees, program, and formulation of bills. The Republican party, smarting under defeat, has reorganized and through eminent members has announced a new platform which, though conservative, makes some concessions to the Progressives. These have held a conference of delegates at Chicago with a view to some degree of reunion with the Republicans and the organization of this partial blend along progressive lines. In general, however, party interests and purposes are, from the standpoint of former leaders, in a condition of dire confusion; it is a period of readjustment on lines of direct government.

The advocates of direct or popular government

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profess great contentment with the advances which their cause has made. They enumerate the direct election of Senators; the conferring of the franchise on women in Alaska, and to a certain extent in Illinois; woman suffrage as working well in ten States and as a campaign issue in ten others; the adoption of a State-wide direct primary system in two States, making a total of thirty-eight; the existence of presidential preference primaries in seventeen States; the adoption of initiative, referendum, and recall in one State, of initiative and referendum in eighteen, of referendum in two; the existence of State-wide recall in eight States, and the general demand for reform and efficiency in government. Owing to the vote of nearly a million cast for their candidate in the presidential election, the Socialists have been greatly encouraged; but the municipal and partial State elections brought losses as well as gains, and they have barely succeeded in maintaining the ground they had gained. Like the labor-unionists, among whom their doctrines make some advance, they have found it imperative to intrust their interests to skilful leaders, a fact which in both groups causes much dismay as tending to destroy perfect equality and create an aristocracy, a process denounced by extreme radicals of both sorts. It appears as if there were this powerful element of disintegration inherent in the socialistic party of every civilized nation; with considerable gains it shows in all lines signs of division into "broad" and "narrow" factions. As to the Prohibition party in America, the movement advocated is making conspicuous headway in the States; but as a factor in national politics the party gains no substantial support. We may safely conclude as the result of a

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general view that the social revolution finds its most important expression, not in the gains of revolutionary or radical parties, but in the transformation of the real parties which control government, and that legislation turns in great measure about the various degrees of State and national control; corresponding to the fear of loose construction is the more or less successful effort to amend the Constitution so that direct legislation may not interfere with its strict construction. In our politics old friends reveal themselves recurrently, however new their faces may be.

As regards our relations with trans-oceanic countries, there is no marked change under the new administration. Owing to the interpretation of the tolls paragraph in the Hay-Pauncefote treaty by the act of Congress, the great mercantile powers professed, and in considerable measure felt, that America wrested the meaning of plain language in an unfair and selfish way. There was in consequence some relaxation of friendly interest: Russia does not forget our denunciation of the treaty with her, nor the slight put on her dignity by the nature of diplomatic appointments. Japan, distracted by upheavals in her domestic politics and burdened with enormous debts, feels the old friction arising from our treatment of Asiatics, but professes a continued friendliness. In China we recognized by cable the government of a blood-stained usurper, about the *de facto* nature of whose government there could be no doubt, though it is neither representative nor constitutional—indeed, there is no constitution in the Western sense, and but a dim prospect of securing one of any other sort than a prop to tyranny; such is the one adopted, and it may have real validity. In Peru,

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likewise, we recognized the rule of a new executive set up by one of the many periodic revolutions.

But there is a startling and disquieting novelty in the doctrines controlling our foreign relations on the American continent. The controversy with Colombia remains unsettled, although a treaty making apologies for past behavior and providing for a handsome conscience-money payment has been negotiated. President Wilson, in a widely read speech, announced that we would "never again seek one additional foot of territory by conquest." His policies have been plainly revealed, and they turn about a question of almost unprecedented importance in our foreign relations, the opening of the Panama Canal. Trans-oceanic nations must not only never attack the Canal, but they must never compete with it by the building of another. All countries therefore which are situated about the Caribbean Sea must particularly be safeguarded in peace, strength, and prosperity. In order to secure their stability and our own interests there have been promulgated three principles: no recognition, no concessions of natural resources, and protection. The first explains the refusal to recognize Velasquez in the Dominican Republic and Huerta in the Mexican. The efforts of both were believed to be nothing more than most revolutions in the so-called Latin countries of America have been—the seizure of national resources for speculative purposes by a new combination of the "outs." There is still trouble in quenching both the Dominican and the Haitian insurrections; the complications, and exasperations in the application of the non-recognition doctrine to Mexico have been intolerable. The administration has likewise maintained its no-concession position, for a British

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oil-trust, which had purposed to exploit the oil-fields of Colombia, withdrew an application to the Colombian Congress on the explicit ground of our official opposition. By reason of their close proximity to the Canal, and the ever-growing use of mineral oils as ship fuel, virtual control of these fields by a possible foe would be a national menace. By a still unratified treaty with Nicaragua that republic would become a protectorate of ours in much the same sense that, under the Platt Amendment, Cuba has already become. Already Nicaragua, Honduras, and the Dominican Republic are, in an indirect way, under our financial supervision. This indefinite control prevents foreign creditors from territorial aggression and renders revolution vain. As to pre-emption of all canal routes, we have endeavored to secure the exclusion of all rivalry by agreements, not yet complete, with Colombia and Nicaragua, and are striving for two naval bases, one on Great and Little Corn, a pair of Colombian islands off the east coast of Nicaragua, and another on the Pacific in the Gulf of Fonseca, the shore of which is divided between Honduras, Salvador, and Nicaragua.

The policy of the Taft administration regarding Mexico was the time-honored one of strict neutrality and non-intervention. The question of recognizing Huerta, a military usurper, but a *de facto* ruler over most of the country, was left open. The Wilson administration promptly announced the new policy of non-recognition, refusing expediency as a political guide. "We will never condone iniquity because it is most convenient to do so," were the President's words, and his demand was for a *de jure* government elected under the Mexican constitution. This appealed to many on high moral grounds; but it was a

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departure from former policy and a virtual recognition of the rebels, who called themselves by the specious name of Constitutionalists. The great powers of Europe recognized the *de facto* government, but decided to give the President's policy of "watchful waiting" an unhampered play. Non-recognition implies isolation, but the Constitutionalists drew unlimited supplies of arms and ammunition over our frontier until public opinion demanded an embargo on their procedure. Huerta's government could not borrow money, and in the horrors of an internecine civil war the subjects of foreign powers, including hundreds of our own, were exposed to outrage and frequently done to death. The enormous capital invested by Europeans and Americans in Mexican enterprises had no protection, except that which battling generals were disposed to give. As far as possible, means of departure were furnished for foreigners desirous of leaving the distracted country.

President Madero, deposed and then murdered by tools of Huerta and Felix Diaz, had been succeeded by the leader of the insurrection as provisional president; pretended elections had sustained the act; thereupon the governor of Coahuila, a northern state, headed a rebellion against such usurpation. Our embassy in the City of Mexico was put in charge of a secretary, President Wilson sending a special envoy to demand a cessation of arms and a free election. The condition antecedent to any further steps was the elimination of Huerta. To the uninitiated there appeared to be real negotiation, and communication of some sort was long drawn out. In any case, there was some appearance of rearrangement among the discontented, and one leader on the floor of the so-called Congress openly attacked the occupant of the

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presidential chair. The recognition of Huerta by the European powers was conditional upon his written declaration that his seat was only provisional and transitional. He now unmasked; on October 9th a hundred and ten of his own "deputies" were imprisoned, the Chamber was turned out of doors, and a new "election" for October 26th was ordered. Our government remonstrated, declaring that the coming election would have no validity in its eyes. The British envoy presented his credentials to Huerta the day after this stroke, but his government explained the act as unconnected with the fact, the ceremony having been previously arranged for that date. A new Congress assembled, and military operations assumed the form of regular warfare; foreign war-ships appeared in the harbors to take off refugees, and our envoy made an effort to protect the foreign oil interests at Tampico. How far industry has suffered cannot be reckoned, but foreign exchange fell to a low point, and rumors of devastation and starvation reached the outside world. It was said the Huerta régime was toppling because of isolation, and many victories were won by the Constitutionalists.

But what the President knew he did not reveal: conditions remained unchanged until a fleet was sent to prevent the landing of ammunition for Huerta; the embargo on arms for his antagonist was restored. Long - protracted ignorance, perpetual outrage on Americans in various Mexican towns, and a disparaging criticism from Europe combined to render governor and governed alike the victims of nervous exasperation. The Huertist authorities arrested American marines landing peacefully and unarmed, but quickly released them with apologies. Admiral Mayo, in

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command before Tampico, demanded a formal salute of the flag. The shrewd usurper gave a half compliance, utterly unsatisfactory, and endeavored to unite all Mexico in his support against American arrogance. President Wilson announced that he would consult Congress, and ordered the occupation of Vera Cruz. His support, alike from the national legislative and the people, was loyal but not enthusiastic. Many had been bitterly opposed to the repeal of the tolls clause in the Panama Act carried by presidential insistence; this feeling and the apology in the Colombia treaty make its final adoption excessively difficult.

What has been styled the Wilson doctrine—to wit, no recognition, no concessions, and protection within the Caribbean zone—had thus far been only partially successful. We were undoubtedly in the initial stages of war when the three great powers of South America proffered mediation. The administration, it is believed, had itself conceived the idea and immediately accepted, with the reservation that in any proposal for settlement it was categorically imperative that Huerta should be eliminated. He is at this writing a fugitive but still the outcome is uncertain. In any case the Monroe doctrine has undergone a profound transformation. It has been at best a political principle of great moral force, for it has never been officially defined, and has no recognition in law, even our own municipal law, except as American commissioners at the Hague Congress cited the Monroe doctrine in making certain reserves by instruction from the State Department before signing joint agreements among Western nations.

In its last analysis the Monroe doctrine is the

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expression of our determination to have within close proximity no powerfully armed neighbor. Of necessity the expansion of the comparatively small but populous and powerful states of Continental Europe created a system of military interventions. We refused either a Russian or Spanish or French continuous boundary, and would at any time before and immediately after the Civil War have fought to prevent it. We intervened in Venezuela to prevent a substantial increase of territorial power under Great Britain. But the American temper can brook no great standing military establishments, no compulsory military service in time of peace. We are quite willing to fight only to prevent more fighting or a constant increase of fighting, and ostentatiously hold ourselves therefore pacific as opposed to military. If such a pacific system is to be maintained on this continent it means wardships or clientage in some form for all other states. Our southern neighbors have so understood the Monroe doctrine, and with growing strength have finally flouted it. Our acceptance of the South American mediation for ever frees the mediators from all sense of such dependency as they have felt, and indicates the termination of a phase marked toward its close by much exasperation. The mustard-seed which seems to be now sprouting into a vigorous plant was sown when the Panama Canal was begun, and we took charge in some measure of Dominican finances under Roosevelt. Doubtless in due time the strong South American powers will take upon themselves the enforcement of both the colonization and non-intervention clauses of the Monroe doctrine and deal directly with the states of Europe in case of aggression real or fancied. What our problem in Mexico and Central America may be

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no one can foretell, but the old Monroe doctrine has lost its vitality south of the Canal strip and has been repudiated by its beneficiaries with our assent.

It will be noted that the political changes due to social transformation have in no way affected the actuality of party government. The alignment of parties to-day does not materially affect the basic principles or practice of American government. There is still a federal Constitution, pivotal to legislation and administration. It is remarkable that it has been so infrequently amended; that the method of amendment is still so conservative; and that in the new stage of society no suggestion has been made for a national convention similar to the familiar State conventions for the purpose of framing a new system consonant with the existing innovations of thought. Amendments, however frequent and numerous, do not nullify anything in the body of the Constitution. Hence there will persist in all classes the difference of opinion as to strict or loose construction, as to minimal or maximal government, as to agrarian or industrial policies, as to territorial limitation or expansion, and as to federal or State competency—the identical policies upon which governing parties have hitherto divided.

Classes, moreover, are more fluid than ever. The stern processes of heredity as modified by environment and training, and the law of devolution which persists along with that of development, continue operative; new leaders replace the old, the ruling-class is perpetually recruited from below, and the alliance of top and bottom against the middle is as noticeable as ever. Indeed, the impatience with party rule and the fierce criticism of office-holders are, as ever, conspicuous; while the transformation

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of radicals into conservatives under the burden of official responsibility is continuous and enlightening. In every political group there are two wings, conservative and radical—the same is true in economic groups. Trades-union members complain bitterly that the increase in their earnings is consumed by the enforced contributions to organization, and abuse the luxurious lives of their paid professional agitators. The rather vociferous and offensive labor group known as the Industrial Workers of the World is making headway with plans to put the unskilled laborer on a parity with the skilled aristocrat of labor. The shocking and bloody strife of 1914 in Colorado was outwardly due to the determination of employers to maintain the “open shop”; that is, to prevent the monopoly of labor, which deprives the non-union man of his right to work and hence even to live. Throughout this domestic warfare, violent and appalling, the upper-class labor leaders have been singularly silent and inactive. In Montana there have been bloody hostilities between two labor-union elements, which practiced on one another the outrages hitherto reserved for employers.

Really and beneath the surface the essence of trades-unionism is the exclusion of the many for the benefit of the few, the primitive curse underlying the universal passion for inequality known as ambition. The Colorado mine-workers are immigrant Slavs, of sluggish minds and ignorant of the English tongue. To level them up is, of course, to level down the better-trained and intelligent. Meantime law and order have been by-words, and the enforcement of law with the maintenance of order was impossible without the assistance of federal troops. It is right to grieve about all these human processes, but despair is to be utter-

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ly-contemned. While man remains man the struggle for eminence goes hand in hand with the struggle for life, and only self-denial can prevent excess; self-interest is powerless to enforce the limitations of personal license essential to the orderly association on which existence is conditioned. Restraint in every degree is suffering to the natural man, who is apt in suffering to cry out and strike out. What happens therefore and will happen in the politics of party strife sooner or later happens in association of any form. Incidentally it may be remarked that woman suffrage in Colorado has greatly enlarged the number of voters, but the increase has so far done little to "save the State."

Federal aid as the "god in the machine" has been further evoked in matters of transportation and road-building. The scientific study of necessities has made great advance, and engineers have developed plans for trunk-roads, main roads, secondary roads, and feeders; they have considered the matter, moreover, as a common national and State affair, so as to combine and unite grand through lines with State and local needs. For all this immense project federal aid has been demanded alike by the public, spontaneously, and by interested parties. The Congress has gone no further than the appropriation in 1912 of half a million for the construction of experimental and rural postal delivery routes. In any specific instance the State is to double the federal appropriation, and the whole is to be expended under federal control. The response has been slight. Further advance is proposed but quite as strongly opposed; on the ground that liberal and effective legislation would create another "pork barrel" like the bills which make appropriations for

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rivers, harbors, and public buildings. The vast majority of States have made some provision for either the study or partial construction of highway systems. In the actual building there has been much corrupt political chicanery. What is really most important in the whole connection is the general awakening, the demand for radical improvement, and the almost entire absence of discussion as to State and national rights or duties in regard to the matter when considered in Congress or elsewhere. Expediency and utility, the means and the methods, are subjects of intense interest—theory and politics occupy little attention. In a summary way it may be said that federal aid is not in the present stage of agitation for great highways a party question at all. In a further stage, when the States have done what they can or will, and when the federal government is called on to supplement their efforts, it is likely to be, as it was during the existence of the Whigs, one of the major questions in the alignment of parties. That the road question is steadily advancing in public interest among the States is sure; that it will become national in scope and be a vital political matter seems equally so, as is the fixing of railway rates already. As regards great waterways the federal government is expected to assume complete responsibility and control; as regards great landways for the common use the same flow of political opinion is to be expected.

For the past five years only have statistics of returning alien immigrants been kept, and it appears that the average permanent increase of population from this source is annually something more than half a million. The succeeding census enumerations show that negroes increase by natural means less

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rapidly than whites, and the immigration of blacks is very slight, except for that from the West Indies, almost non-existent. Where negro population is numerous and important there is, though bitterly resisted, a steady trend toward segregation in districts. Scientific scrutiny and accurate measurement prove a remarkable assimilation among children of resident white aliens to the American type, and in the second and third generations racial characteristics are modified almost to extinction. But meantime there are districts where the congestion of alien Europeans leads to the perpetuation of their previous system of life and retards their assimilation. On the Pacific seaboard the question of Asiatic immigration continues a perplexing problem. Federal intervention and ultimate control in the regulation of labor troubles, in the restriction of immigration, and in the limitation of expansion of the suffrage in the Southern States, are already party matters, and with time they are sure to become more and more acute. Negro labor is economically as imperative in some States as is imported European labor in others. Assimilation and control, race amalgamation and rights, both civil and political, are still, one and all, as they have been, burning questions in the forum of party politics and might again prove almost, if not altogether, incendiary. Sectional interests may be composed in a peaceful way, but when the animosities not only of Europe and South America, but of both the hither and the farthest East, come to be, as in a measure they already are, subjects of conflict in party politics, there is likely to be a rearrangement of social and political forces which will be revolutionary to our entire system of governmental control. The time when such possibilities may be-

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come realities is probably far distant, however; and the changes of a century have been on the whole so slight fundamentally that experience may find solutions not yet discovered for the most menacing troubles of humanity within our vast domain.

XXXIV

PARTIES AND THE PRESIDENCY

What the founders intended the presidency to be—The electoral college absorbed by party machinery—Inherent power of a representative presidency—Party government and the executive power—Manifest advantage of the executive over the legislative—The short and long term ideas—Relation of these to party machinery—Exaggerated views of presidential power—Suggested reforms.

THE historical sketch of party government which we have given exhibits the United States in four phases of evolution: aristocratic, democratic, imperial, and colonial. The first is federal, and co-extensive with the formation of the Union; the second, with the expansion of the suffrage and continental settlement; the third, with the Civil War and reconstruction; the last is contemporary. Throughout all there has been an unbroken process of confusing governmental powers intended by the framers of the Constitution to be kept separate and apart. This confusion has been beneficent, and was mainly caused by the parties; almost unnoticed, every organ of federal government has been modified into something not foreseen and never intended to be evolved. The most noteworthy transformation, as we have before remarked, is that of the presidency, and of this we must recapitulate and briefly discuss the various stages.

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These correspond generally, though not chronologically, to those of national evolution, and have had a close connection on the one hand with the personality of incumbents, on the other hand with party politics. It was intended that the presidency should correspond to the ministry of Great Britain as then constituted, a power outlining and forecasting policies, administering the laws, and keeping government efficient. To its temporary incumbent was given the patronage as a "principal source of influence"; the unselfish would be patriots anyhow; the selfish must be kept patriotic by "loaves and fishes." This responsibility Washington accepted in fullest measure, and by the power of patronage Hamilton made Congress bend to the executive will; Jefferson shirked the exercise of such power. The former emphasized his personal views in his messages and selected the "fit" for office; the latter assumed the rôle of the shrinking plain man whose opinion was not better than another's, concealed his views in writing messages, merely enumerating measures, and put into office men with no experience, selected because of their influence with the plain people, who constituted, after all, the majority of the voters, restricted as the suffrage still was. There was in this rather evasive way a real influence of party spirit on the presidency, though it was concealed as far as possible. To the end of Monroe's administration party spirit was still relegated to decent obscurity. But under John Quincy Adams it was irrepressible, and, causing the gravest disorders, stalked forth into the open to complete the discredit into which the institution of the electoral college had already fallen. The tendency so far had been toward congressional control of the Exec-

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utive; the government was fairly managed, the laws executed; but the President did not initiate legislation, nor enforce policies by the use of patronage, and the exercise of the veto was infrequent. The presidency was not recognized as a representative office.

This was, however, inevitable when the electoral system became, as it did in the election of Jackson, simply a conductor of the public will as expressed in party action. The electors were independent in 1789 and 1792; but they felt party pressure in 1796, and party loyalty thereafter steadily increased until party behests became imperious and all electoral discretion vanished. The electors were at first chosen by popular vote on the general-ticket system in only three States; now there is no exception, and the President is chosen by States. Eleven hundred votes in the State of New York threw thirty-six electoral votes for Cleveland as against Blaine, and determined the election. Hayes had nearly a quarter-million fewer ballots than Tilden, and Harrison was elected over Cleveland with ninety-five thousand fewer votes than the latter. Nevertheless, every President feels, and most of them assert, their responsibility to the whole nation (perhaps for just this reason) as well as their party loyalty; in any case, imperfect as the shift may logically be, the presidency is universally regarded as substantially representative of the whole people, and has so been considered since Jackson's time. The electoral system having been completely absorbed and turned into a piece of party machinery, the office retains something of a non-partisan character in each of the four functions which it embraces, though the man must be a party leader before and after attaining the office.

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This appears in each of four activities, which relate respectively to foreign affairs, domestic administration, the initiating or checking of legislation, and appointment to office. These he maintains personally or by means of his Cabinet, a body that with negligible exceptions has been purely partisan, of the same political complexion as the presidency; and, what is most important, in regulating his control over Congress. The influence of the President on public policy has been noted; even presidents of little renown realized important ideals. Van Buren forced the independent-treasury system; Tyler, a definite financial and tariff policy, as well as the annexation of Texas; Polk, the Mexican War; while Fillmore, Pierce, and Buchanan compelled the compromises of the slavery question. Johnson failed in his policy of reconstruction, but Congress prevailed only by an appeal to the people, sovereign over all the powers of government. Congress indeed blusters and legislates, but vital bills do not pass without the support of the administration; even tariff and silver bills have not commanded the support of a favorable majority when openly condemned by the President, and in 1893 the Senate was literally dragooned into repealing the Sherman Silver Act against the convictions of the majority. The administration enjoyed unquestionable popular support. This representative power was doubly clear in the cases of Tyler, Johnson, and Cleveland, all of whom not only lost party leadership but were repudiated by their party, but who monopolized through executive measures the entire action of their party. Congress itself feels most uneasy in the face of a great emergency (the people still more), and instinctively emancipates the Executive from all the thrall-

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dom of checks and balances, passing the necessary bills without question. The Civil War, the gold-reserve fund, the currency system, and bond sales, are all instances. Still further in these latest days, when Congress under its Interstate Commerce Act made the Executive responsible for keeping open national highways, it was imperative that when obstruction occurred under State authority, as in the railway strikes of 1894, the federal Executive should supersede, as it did, the State authority and wipe away the last vestige of the doctrine of State rights. And the whole country approved.

The impulsion of both the people and its representatives toward strengthening presidential power is, however, displayed most clearly in the exercise by Congress of both its limited treaty-making power and its unlimited power of the purse. Beginning our national career as a congeries of jealous and jarring communities, the steady trend of events, and even of opinion, has been toward nationalism; to this party government has contributed in several ways, some of which have been indicated, but in no way so vigorously as regards the enlargement of the presidency. Even the accidental presidents have enjoyed an unforeseen power, and the vice-presidency is not so contemptible an office as it seemed when the presidential powers were inchoate and the succession to them through death brought little except dignity. Even impeachment has proven a broken reed for the control of the President.

In the negotiation of treaties the Executive is, of course, supreme; the Senate still intervenes with might in its frequent refusals to ratify them when any question of its own dignity and power is involved; but that is the sole ground on which it can refuse

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assent and enjoy the moral support of the nation. When the foreign policy of government is involved and there is no infringement of right, privilege, or courtesy, even when there is an adverse opinion and money appropriations are imperative, the Executive in the long run prevails. The same thing is true of appointments, to most of which consent is given as a matter of routine, although in this respect of important patronage the Senate has arrogated to itself a degree of antecedent control far beyond anticipation. This again is due to the necessity of keeping party machinery in repair throughout all the States. The nicest calculation is exercised in advance by Senators as to their respective shares, and by what is called "the courtesy of the Senate"; in other words, a tacit understanding that each member shall be left untrammelled in the management of his personal interests. A nomination made by the President with the assent of the Senator interested is almost sure of approval. There are exceptions, especially in regard to the justices of the Supreme Court. Their attitude and their record is closely scrutinized; wherever party interest can be furthered by delay or rejection, consent is withheld.

But here again the presidency has an advantage, and often counters the legislative successfully. To withhold supplies for executive measures stops the wheels of government and is distasteful to voters; the check is not practical. To reject an appointment exhibits senatorial vigilance, but the Executive has the absolute power of removal. It is easy to thwart Congress by making an appointment and issuing a commission good to the end of a session, and then in case of the Senate's rejection to renew it. For the whole second term of Jefferson, a Sec-

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retary of the Navy was thus kept in office; in like manner Jackson secured without consent of the Senate a Secretary of the Treasury, who held office long enough to work his will; as to minor offices the precedents are very numerous. By such devices the Executive, even with an adverse legislature, is able to secure party advantage by the use of patronage; that is, to keep the party machinery oiled and running under all conditions, however unfavorable. There is no fear of administrative adjustments before his eyes; there is the fear of party rebellion. While it was hoped that the short term of the presidency would be a safeguard against monarchical tendencies, and while it was not originally contemplated that one term of office should give prescriptive right to a second, yet the two-term concept was evolved and put into practice whenever possible by the Democrats, and has now become a sort of unwritten behest in the Republican party.

Now it is the party which makes the second nomination as well as the first; the party retains its permanent organization by its State and national committees, these in turn secure the selection of convention delegates, and in the last analysis a President in his first term must conciliate his party for the sake of a renomination, and in his second must feel the moral obligation to perpetuate party power to be imperative. Bryce says in this connection:¹ "Party government may be necessary. So far as we can see it is necessary. But it is an unfortunate necessity." He then speaks of its mischievous influence in administration, its obtrusion on foreign states, on domestic ideals. Ostrogorski² thinks that

Vol. I, page 74.

² Page 367.

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the convention system and party organization have sorrowfully damaged the office of President, giving the people a choice between two candidates only, associating the Executive too closely with the legislative power, making his chief concern the strength of his party, forcing on him agents chosen by party leaders, and subordinating his co-ordinate power to that of Congress. The judgment of these distinguished men is antipodal to that of America as a whole; nor do Americans see the facts as they do. To us it is a gain that a governing class no longer exists and dictates as at first; it is an enormous gain that in party organization European immigrants are welcomed, enrolled, and drilled for participation in government; it is supremely important that in the President the people, however imperfectly, should find its tribune. For us these gains are manifest; and the effect of party government in influencing administration, in obtruding with our own selfishness on that of foreign states, in modifying ideals, and generally in guiding changes toward reform rather than revolution, appears anything but mischievous. Mischievous is inherent in federal government as in every other form of social order. Statesmanship consists in preferring not positive good to positive evil, but in selecting the least of two evils. We necessarily compare values as between our troubles and those of other states; and, while the comparison indicates no millennial features in America, at least it gives us courage to repair and perpetuate our governmental structure, make our needed adjustments and changes with hope, and beautify as far as possible the building we inhabit.

There is much exaggeration and great infelicity of language concerning the presidency in the Ameri-

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can books on what is called political science. To that office is attributed the rôle of defining issues, of terminating party strife and tricks, of settling disputes, of forcing policies. John Quincy Adams said the presidential powers were "more extensive and complicated than those of the legislature"; Seward called the president a king within certain limits, which, after all, he himself interprets; Hayes thought of himself in the presidency as holding the "nation in his hand"; a foremost jurist (Hare) enumerates his military, treaty, war, veto, and patronage powers as "more truly regal" than "those of an English monarch." In all this there is much truth, but not the whole truth by any means; there is confusion between the office and the holder of the office. "The presidency is not a revival of elective kingship, the tenure of which is fixed by precognition of the nobles and the tumultuous choice of the freemen."¹ In this forced analogy there is hinted a seductive parallel, but it is dangerous thus to juggle with history. There is no king; there are no nobles and no freemen in the old sense. This age is ideally a reign of law, which is a sovereignty supreme over all persons; the "king" of yesterday is the farmer or editor or lawyer of to-day; plutocratic and even patrician "nobility" runs for the most part in three generations "from shirt-sleeves to shirt-sleeves," and where all are freemen it is absurd to suggest slavery or peonage or serfdom. Where there is absolute equality of opportunity the equality of political and civil rights ensues. To talk of wage slavery is to confess weakness, and neither political nor moral nor secular institutions of any sort can

¹ Ford, page 293.

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create native ability; they can only give to each degree of ability, positive or negative, the chance for self-realization. Human nature changes little from age to age, and the ideal nurture or environment gives an equal chance to its meanness as to its virtue. The tendency to regard the presidency as a refuge from the consequences of incapacity and sin is inherent in human weakness; it has nothing whatever to do with the influence of parties party politics, or party government. There was no golden age in American history as we have seen; the presidency of to-day as molded by party government is inherently a finer office than at the outset, because it is strong and directly responsible to a nation, to a party, and to a social condition hitherto non-existent. The assumption by idealists to the contrary does great harm; the effort of men with perverted concepts of history to prove a reversion to type must be resented.

There can be no evolution without agitation, and prophets of evil have their important uses. By their ingenuity of attack upon existing institutions the fallible quality of the American presidency has been thoroughly exposed. They find the President under bondage to the Senators, each of whom sits because he has secured the voting-power of his State and holds that *in terrorem* over the President. Emancipation could only be secured by taking from the Senate its power of confirmation and placing all patronage without control in the President's hands. This would give him the entire responsibility. Furthermore, the public welfare can secure the attention due from the Executive by separating the man and the office completely from the party "machine," and to this end his term should be seven

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years, with no re-election. His eyes, ears, and hands—the Cabinet officers—should have seats in Congress and in the committee-rooms to advocate administrative measures and co-ordinate the powers of government.

These are pure assumptions that another thing is better than the existing thing merely because it is another. The basic fallacy of such reformers may be exposed a million times; like all naughtiness, it reappears. That fallacy is in fact due to subtle hypocrisy. Such writers stand for popular and free government by their formal profession: but really they believe and insist that the popular voice is not that of God, that on the contrary popular conduct is a rage, a frenzy to be checked and treated like momentary insanity, like an eruptive disease. This is the fallacy of the undistributed middle so familiar to all logicians. The relation of the presidency to party machinery, though evil in phases already indicated, is a historic and normal evolution. Theories which would give it an undivided responsibility would also give it an undivided power far surpassing that which, as now hemmed in, it may ever hope to attain. Those who assert that we have a “king” are the very men who unconsciously promote the entelechy of absolutism. The bad name given to party and party leaders precludes their reformation of character; legislate them into the light; recognize their power, and they will be as harmless as doves.

XXXV

PARTIES AND THE CONGRESS

The influence of De Tocqueville—Danger of comparisons—The functions of the Senate. Its ability—Senators as party managers—Powers of the Senate, constitutional and arrogated—It expresses minority power—Effect on party strife—"Pocket boroughs" and political feudalism—Abuse of party organization—The House an irresponsible factor in legislation—The committee system.

THE late eighteenth and early nineteenth centuries were concerned with creating a heaven on earth, and western Europe took itself very seriously in the effort. Its interest in the American Revolution, largely considered, was exactly proportionate to the American approach to Utopia. In the beginnings of our national life and the inauguration of our party system enthusiasts on both sides the ocean seemed to discern a light that never was on land or sea. The founders of the United States, and the second generation which gave form to its nationality, were prosaic, practical persons with a pose of outward decorum, but no suggestion of saintliness in character. But seekers after a sign continued to remark non-existent superhuman qualities in what they considered a rejuvenated Europe with an Elysian domain; and finally Alexis de Tocqueville wrote a fascinating book which has done more to warp the

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general judgment and thus harm present-day America than any other single influence. His seeming acuteness and his lucid style commanded attention to a political system even then in the agonies of self-preservation and to a society in the throes of struggle with the slavery system. These he outlined as utopian, at least in embryo, speciously forewarning and analyzing dangers, to be sure, but thereby really stimulating the imagination.

The latest censor of American affairs, Ostrogski, a Slav with French training, compares present conditions with those described by De Tocqueville, and exhibits to the world a frightful degeneracy in our men and institutions. This is particularly true, he finds, of Congress—Senate and House, which are represented as stewards of political vice because of the party system when contrasted with the stately sanctity of both the chambers, especially of the Senate, as represented to have prevailed in 1835. What serves thus as a standard of comparison is false and never existed. The more searchingly we have examined American statesmen in the mirror of history the clearer is our conviction that they are, after all, only “dead politicians.” Our heroes were selfish, sinful, erring men; but they were virile men, and they went about the country’s work in a manful way in spite of their failings—not, however, in any higher degree than, not even in as high a degree as, men at the present hour are attending to the country’s affairs. The effect of party evolution on the Senate is especially deplored. Let us see.

The Senate is the most distinctively American of all our institutions, utterly unlike any other instrument of government. Being a permanent chamber, and deriving its powers from the States, it is the

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complete expression of federation. Inasmuch as two Senators are chosen from each commonwealth—tiny Delaware or imperial New York or vast Texas or wild Arizona or sophisticated Massachusetts—the Senate laughs to scorn what men are pleased to call democracy by a very climax of inequality in representation. The two Senators of each State have, until very recently, been chosen by the respective State legislatures; even now they act in their former capacities of State ambassadors to the central government. The Senate is considered by the generality as a rival power of the Executive; both were chosen by indirect vote, and yet in different ways; one of them still is so chosen; both have executive functions, and both have control of patronage. The Senate alone has judicial functions, and then only when it sits as a high court for the trial of impeachments, thus relieving the Supreme Court of any opprobrium connected directly with politics. Such rivalry as exists relates, therefore, to the confirmation or rejection of treaties and appointments to office. By its equal representation of States and unequal representation of voters and inhabitants it has soothed State pride, has as a council advised and checked any President disposed to abuse executive powers, has exhibited permanency of control and promoted the stability of institutions, and has, as well, afforded a safe deposit for policies necessarily continuous. As a court it furnishes a safety-valve when the political pressure puts too severe a strain on the machinery of government. It was expected that transcendent public virtue would characterize its members, as it would encloak a non-partisan Chief Magistrate; and, further, that while serving as an Upper House to temper the heats of popular legis-

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lation in the Lower, its functions would be those of a privy council, and mainly executive. In a way it has fulfilled this expectation, moderating the "democratic recklessness" of the House, tempering the "monarchical ambition" of the President, even though the body of legislation initiated by it has not had so high a quality as that coming from below. In its membership have always been the men of greatest political power, whether intellectual and derived from voting control, or from patrician birth, or from moneyed interests. That, as individuals or collectively, Senators as a class never had and have not now disinterested wisdom or spotless morality need not be repeated. What must be reiterated is that from the beginning the Senate has possessed ability, whether it has rightly used or wrongly abused it.

The influence of party government has, however, been notable. It was as late as 1816 that it began to introduce a committee system parallel with that devised by the House to initiate and control legislation. Its committees are bipartisan like the others, and through these instrumentalities party leadership has long controlled its activities. The game of party management is won in securing the great political prizes, and the senatorship is only second as a prize in public esteem to the presidency. Senators as a rule are not orators; they are either political bosses or the tools of them representing localities not in a forum, but in a diplomatic body. In its first epoch the members were local notables, in its second they were parliamentarians, now they are political magnates, "bosses," or "men with barrels" of money. Public opinion is still enormously influenced by oratory, but not as heard on

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the Senate floor. Physical dimensions, especially of space, have transformed the Senatorial speaker into a writer; a spoken plea has value mainly when printed in the pages of the *Congressional Record* sent free by mail to every constituent of the Senator, or in the columns of great newspapers.

In the three stages of its being the Senate has secured for members men of the highest ability, typical of their respective epochs. Since Polk checkmated his political foes by an appeal to the Senate as a privy council regarding the northwest boundary dispute, and the Senate shirked its responsibility, that quality has departed from it. Grant virtually ended its abrogation of power to prevent removal from office, and in 1887 the Tenure-of-Office Act was repealed; since then it has been content with its constitutional share in patronage. Yet its continuity, its unrestricted liberty of debate, and the power of its members to sway party machinery or finance political campaigns have increased rather than diminished its standing. There are, of course, the party magnates; there are, of course, the financial magnates; and by the coalescence of the two the Senate has become the refuge of privileges and interests, exactly what its founders carefully considered as a possibility and rejected as a hateful degradation.

This is the work mainly of party government, but whether the result is or is not bad seems extremely dubious. The personal characters of Senators were never so high, "dumb-dogs" as they are in oratory. That they manipulate and bargain as diplomats have always done is certain; that moneyed interests and privileged monopoly find temporary guardianship in the Senate is well known; that in these processes

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the nation oftentimes feels itself degraded no one questions. On the other hand, the Senate maintains more fully the equilibrium of powers than either the Executive or the House of Representatives; it is a more solemn assize in constitutional matters than even the non-partisan Supreme Court; the openly avowed protection of interests results in conflicts which in the end secure an equality of legislation fair to all sections; it is the expression frequently of minority rule—in an actual vote on the silver question of 45 to 32 the former represented eight million fewer persons than the latter; thirty-two millions have twenty Senators, twenty-nine have sixty-eight. What, therefore, appears deterioration, degradation, unfairness on the surface, has proved in the elaboration of party rule a strong conservative influence and the bulwark for the rights of the few against the hysteria of the many.

Its reflex action on party strife throws into the party arena a most calming and salutary influence. The authority of Senate and Senator, as constituted and elected, is grudgingly recognized; yet the agitation for election of Senators by popular vote found little support until our present age; the body, transformed as it is, and distant as it is from ideals which never were and never can be realities, stands, nevertheless, *tranquillus in undis*; the waves of social democracy beat against it in vain; the theory of direct popular government has so far affected it little; its representative character is undoubted as regards localities and interests, and historical in that it remains opposed to theoretical evolution. There is just now a wide-spread tendency to disparage and depreciate the Senate; this tendency is periodic, but its sense of the fact gives pause to the abuse of

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senatorial power just as frequently, and under party government its place in the governmental system is just as definite and firm as ever. Its timidity in the variations of party and public opinion is its safeguard. The seat of an equated political aristocracy, it is likewise the hearthstone of social equality, for the number of its members who are in their respective States both poor and socially lowly is quite as great as that of the wealthy and patrician members. At Washington, the national capital and seat of power, all Senators share and share alike in social distinction, without discrimination in the matter of precedence or in the honor rank of them all.

There are at present about eighteen million voters in a federal union of forty-eight States. The mining States of Nevada, New Mexico, and Arizona have populations barely sufficient to meet the requirements for admission, but each, with one Congressman, has two Senators, the men who are autocratic in their political control of the commonwealths which they represent in the Upper House; in recent British terminology these States are pocket boroughs. Contrasting the most populous States with one of them, it is manifest that the procedure which sends men to the Senate varies widely. In the smallest it is perfectly simple, a feudal system of two or at most three degrees, a protection of interests as the return for political support—that is, votes. Busy voters form groups, consciously often, sometimes unconsciously, in which there is a leading spirit whose advice regulates their political conduct. His reward is petty office, and with others he forms a larger combination which culminates in the chieftain's securing the highest offices of the State, and these finally in the Senators who reside at the seat

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of central power and manipulate the national sovereignty for the State benefit. This political and party feudalism is the type of that which is also prevalent in the largest commonwealths, except that in them it becomes vastly more intricate and complicated. In the vernacular parlance this is styled the "organization" of the party; it is managed in each locality by a permanent committee whose chairman is the local leader, in each State by a similar committee, also with a permanent organization. These are the bodies which have so far selected delegates and created the national nominating conventions, which, of course, name the candidates for whom, one or the other, it is worth while to vote, except by way of entering a protest, and create the national committees of each party existing as the guardians of federal party interest. The elected President is the representative of national interest, as the Senators are of their States, and more specifically of national party and State party respectively. Since both depend on patronage to keep the organizations vigorous and obedient, no wonder the presidential and senatorial purposes clash as they constantly do.

This party organization, being extra-legal and representative, is constantly abused in the most shameless way. Service and reward, patron and client, protection and aid, the relation indicated by these antiquated terms is itself not antiquated. In its modern shape, and existing as it does in communities of average or high morality, the abuses arising from it are noticeable, but in a sinful world negligible; in communities of low morality it creates a relation of the most degrading sort, a slavery which saps and destroys the little morality there is. **Where**

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this is true the organization of party is known as the "machine," both place and money bribery abound, and the slime of the serpent is on every political and social institution because it is on the hearts of the men and women concerned, the people who set up and work the whole machinery of life. The fountain cannot rise above its source except by artifice; there are times and places where party machinery becomes so foul that it is clogged and stopped. So far at least these crises have eventually led to a thorough purging and cleansing of the parts, and public has thus reacted on private morality beneficially. It is therefore manifest that in both Houses of Congress the control of party organization is vastly more powerful and immediate than the power of persuasion or debate. Since debate is unrestrained in the Senate, there is more of it, and party influence lies in the man and not in the committee; but in the House quite the reverse is true, the committees being all-powerful.

This committee system is a purely American evolution, and has grown in exact proportion to the expansion of business. The Third Congress had only two standing committees, the Fourth added two more; when the Executive and House quarreled in 1796, another was added; and thereafter, when for a considerable period the focus of political power was in the Lower House, new ones were added at every session. There are now fifty-four; the Senate has forty-nine, and there are three joint committees. All are bipartisan, the majority in each representing the party majority in the respective chambers; the Speaker appoints the membership in the House, the Senate chooses it by ballot. These committees are beehives, and present to Congress substantially every

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measure on which it votes, selecting from among the thousands of bills presented by industrious and ambitious members the hundreds for which time may be possible, and through party connection press those of party importance. Such is the push and haste and violence that the system of House rules to control procedure is as bulky and complicated as a law code; these rules can only be suspended by a two-thirds vote, and the question of suspending can only be debated for forty minutes. Hence the system is virtually a legislative mill: committees can report only under rule, the closure of debate is ruthlessly applied, men vote for some measures in order to secure by exchange votes for others (log-rolling), and when in the last days of the session the rules are by common consent suspended there ensues a legislative avalanche and a general scramble for what can be saved to party and locality. For total irresponsibility regarding legislation the House is a perfect example. Between the reports of the committees and the interests urged by various classes in the community, it secures virtually no time for serious debate. It has in its hand the most powerful lever of government, the money power; but the Senate has parallel jurisdiction. In conference of House and Senate committees the State interest of the latter overmatches the district interest of the former, and the diplomatic pressure of the Senate the legislative force of the House. While, therefore, party government profoundly affects the representatives, the delegate theory controls, but its totality of influence is not now so great as it once was, being overshadowed in the two other branches of government, the Executive and the Senate.

Inasmuch as the responsibility for legislation is

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divided by the committee system, not merely among individuals, but even between parties by means of the open practice of legislative exchange, it will be seen that the original intention of diminishing party influence has on the one hand and in one way been measurably fulfilled, though it is a mooted question whether clearly avowed, openly assumed responsibility would not now be better. There certainly would be more sobriety and gravity in the proceedings, although even in this respect the comparison with similar legislatures is not to the disadvantage of Congress, especially when concerned with strictly party measures, when it feels a direct responsibility and is at its best. The desire for re-election on the part of members leads to what are considered abuses—trading for the benefit of the district (log-rolling) and buncombe orating, squaring the influential local leaders by introducing freak bills, or by patronage, gerrymandering congressional districts sometimes for partisan, sometimes for personal advantage. On the other hand and in another way party influence in the House has become at times absolutely paramount. This arises from the Speaker's usurpation of discretionary power as to whom he will or will not recognize as having the floor, and as to the purpose for which the recognition is to take place. Each party has its own elements of discord, its centrifugal forces of great intensity; the Speaker, however unanimously selected, is likely to be a man of stalwart native force and consequently a partisan within his party. It is to his advantage and squares with his conviction that no measure of local or personal interest should take precedence of such larger measures as he approves. This precedence he secures by the simple device of an illegal autocracy; and,

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while the House has the remedy in its own hands by defeating his measures, that retaliatory resort is too dangerous to their individual political fate and to the party; it is, therefore, rarely used, though at intervals it is. But in the main the members value national party interest more than local, and prefer tyranny to anarchy. In this way party organization brings terrific pressure to bear on the House, and of recent years incipiently and to a less degree even on the Senate.

XXXVI

PARTIES AND THE JUDICIARY

Character of the highest courts—Charges against the lowest courts—Projects for reform—Jurisdiction of federal courts—Their control in the conflict of laws—Where party influence is exerted—True character of the judiciary, bench, and bar—The resultant effect of party influences.

IN the relations of executive and legislative, party government has supplied much of what the Constitution does not. The effort was to separate and even antagonize the two powers; it was initially only too successful, and would have continued so to be except for the evolution of the extra-legal machinery supplied by parties. This has blended and harmonized the workings of the two as far as is imperative, and in the blending party influence is not at all concealed, but is, on the contrary, easily discernible. Upon the third great department of government, the judiciary, its influences have been more subtle. Of course, every judge, federal or State, is a partisan more or less intense; he is elevated to office either by party votes or by the appointment of an Executive who has been so elevated. To this party allegiance there are exceptions of considerable number. Conspicuously able and conscientious judges elected for long terms of office are often renominated by both parties, and so, unan-

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imously elected; but the men themselves do not disavow partisanship, and such exceptions prove the rule. Moreover, no intelligent official can fail to be informed concerning great public questions, and in the end to entertain a decided opinion regarding them.

Furthermore, in the highest federal court it is customary to make appointments as vacancies occur in such a way as to maintain an equilibrium on the Supreme Bench between the two great parties; within a very short time a Republican President, besides appointing two Democrats as justices of that court, elevated another, a Southern Democrat, to the chief-justiceship. The persons composing the judiciary are therefore in no sense non-partisan. When by due process party questions come into court, natural bias cannot, therefore, be entirely eliminated, but the confirmed habit of judicial balance in a large body of able men counts far more than party allegiance, and the instances are rare where partisanship is noticeable in the proceedings of the high courts, federal or State, which are as immaculate as a human institution can well be. Their duty to construe the law verges often in its performance on making the law, and for this they are sometimes blamed; but the long record shows that they have been on the whole true to the duty of simple construction, leaving both legislation and administration where they belong.

The nearer we stand to the source of authority the more we note faults and weaknesses in it. With the partisanship of the highest State and federal courts there has been so far very little faultfinding, the currency question and the loose or strict construction decisions having afforded the few most

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acute instances of party influence; but with the minor State courts, and the conduct of criminal cases in particular, there has been wide-spread discontent. To them the citizen is far nearer than to the federal courts, and in them the direct influence of party organization is much easier to exercise. The active class in the lower strata of a corrupt party "machine" is in measure composed of persons low in quality, who exercise a more or less pernicious, a more or less beneficent influence corresponding to their characters. It is sadly true that the police hesitate to arrest for minor derelictions such evil-doers as "play politics"; that their local leader often gives bail for such miscreants or releases them through influence in court; that party power secures protracted delay in trial, and often ultimate release.

This is the worst side, as that of unremitting social assistance is the better side of the corrupt "machine," and finally the practice of harassing deserters or opponents, the alliance with vice and the tricking of honest voters by forcing the nomination of "machine" candidates, form the utterly bad one. From the police justice upward the elective incumbents of judicial office are in a noticeable proportion of instances machine creatures. What gives such men a refuge for their better nature and often enables them to serve honorably and usefully the public as a whole is a general public opinion and corresponding scrutiny before which shameless and malign "machine" effrontery is cowed. As to this all observers, native and foreign, are in agreement: that the party boss is to his vassals a tyrant, but to public opinion a cringing slave, a lip-servant and a time-server, though a shrewd opportunist. Neither

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legislature nor judiciary can be controlled by him for long. There is a general belief that with an elective judiciary the party organization rewards its ablest men by elevating them to seats on the bench; that a desire for re-election leads such judges to court those by whom they were selected for office; and that the standard of morality in the State judiciary has thus been lowered. What is considered overwhelming proof of this is an asserted mal-administration of criminal justice; the only check on worse abuse is held to be argus-eyed public opinion, to which those sheltered either by moneyed interests paying toll to a corrupt machine or by the machine itself respond all too slowly.

The pernicious interference of party in the lower courts being noted and admitted, many conservative projects of reform have been put forward. A return to the appointive system, from which some States have never departed; a compromise increasing at least the number of appointive judicial positions; the direct intervention of the sovereign popular will by submitting immoral decisions to popular vote; and the recall from office of those who render them—these four are the principal suggestions. Much can be said for each. The immense number of elective offices has rendered it impossible for the voter to familiarize himself with the character of each candidate named on a huge ballot, and has thus reduced the citizens to the servile tool of nominating conventions controlled by party bosses. For this reason alone, if for no other, the number of elective offices should be reduced, especially in selecting the judiciary; and the ballot shortened. This seems to be the only chance for the public will to express itself intelligently. Were the term of elective officials

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in the highest courts made very long, even for life or good behavior, some of the trouble would be remedied.

In such cases as lead to the wide-spread, deep-rooted conviction of venality and unfitness it is conceivable, though not certain, that an election for recall requested by a great number of registered voters would prove a satisfactory remedy, partially at least. This suggestion has in a few States been incorporated in the law. But the results from a very small number of local applications have aroused no enthusiasm. In practical politics there is unhappily never a choice between absolute good and positive bad. If there is to be popular government there must be popular interest, keen, constant, and poignant. To keep and stimulate this there must be rewards of honor and place for active workers; offices which touch the daily life of every one must be held by those known and trusted by the masses, and to this end all the lowest judicial positions must be filled by frequent elections, and quite probably, too, a certain proportion of the highest must be held in comparatively short tenure. The immemorial tendency among Anglo-Saxon peoples has been toward an undefined, opportunist, democratical government, intervening the least possible in private life, but also, inexplicable as is the contrast, toward regarding public office not as a public trust but as a private possession, a reward for services already rendered; not as a stimulus to perform duty and meet coming obligations. There is only one remedy, and that very elusive, for the evils of any form of government: the elevation of private morality by influences personal to each subject or citizen will result in the corresponding vigor of public and official

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morality. While the reverse is not equally true, yet the two work together, when once established, for the conservation of righteousness. Pure courts proceed from a pure people.

To illustrate and enforce what has been said we must return to the general relation of American courts to American life, in regard to which the ignorance of foreigners is only paralleled by that of Americans themselves. This is scarcely a disgrace, because there is at every spot and in every moment a double network of judicial administration. The person, rights, and property of every citizen may any moment be put in jeopardy at the summons either of a United States marshal from a federal court or that of a tipstaff from the sheriff of a State court. There are three classes of federal courts: the Supreme Court at Washington, in a class by itself, and two others which sit in federal buildings within the districts of their jurisdiction—*viz.*, District Courts of Appeal and District Courts. The Supreme Court was established by the Constitution, and cannot be modified by Congress except in one way, and that a dangerous way—to wit, the increase in number of the justices on the bench. Fierce party strife might lead to the creation of a partisan bench. The other federal courts are the creations of Congress under the constitutional power to establish inferior courts. These bodies have jurisdiction in five classes of cases: (1) those in law and equity arising under the Constitution and the laws of the United States, and from treaties made under their authority; (2) those affecting ambassadors, other public ministers, and consuls; (3) in admiralty cases and maritime jurisdiction; (4) in controversies to which the United States shall be a party; and (5) in controver-

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sies between States, or a State and citizens of another State, citizens of different States, citizens of one State claiming lands under grants of different States, and between a State or citizens thereof and foreign States, citizens, or subjects. The right of one State to sue another, originally contemplated, has been abrogated.

These federal courts derive all their powers from the Constitution and Congress combined. In theory they depend upon the former alone, a charter made by the people, which can therefore be modified only by them; no governmental power can amend or change it. Should such a change be attempted either by Congress or by any State in the passage of constitutional laws, either inadvertently or intentionally, it is the duty of the Supreme Court to see that the limits prescribed in the Constitution are not overstepped; in other words, a statute of Congress passed *ultra vires* is no statute. There are four sorts of laws in the United States: the federal Constitution and statutes; the State constitutions and statutes. Between these there may be conflict, and the court, strictly speaking, secures to each its proper authority, that of the federal Constitution being paramount. It does not control the legislature in any sense, but merely interprets the law. This is so utterly simple that there is a natural tendency to confuse it for confusion's sake. And this is done by noisy agitators who perversely attribute legislative power to the courts and thus endeavor to inflame the public mind. The courts have no humanitarian quality whatever, and they do not attempt to exercise what they have not; the legislature, State and federal, has such quality and does exercise it. The remedy for the inhumanity of

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the law where any exists is in the legislature, and not in the courts.

This is the point at which the influence of party government really touches the courts. For party advantage, as well as in honest confusion of mind, there are agitations to prove that in the exercise of their functions the courts are lawmakers to an unwarrantable and illegal extent. Every State of the Union, being in theory sovereign, has local courts, superior courts of record, and a supreme court of appeal. Since each commonwealth has its own history, there are not two in which the names and relations of the tribunals are identical; most radical distinction of all is that in the majority of States there is no clear distinction between the courts of common law and equity. In some the common law of England is administered in the old way—*i. e.*, the law remains based on custom as embodied in decisions; in others there are codes of statutes revised at intervals and fixed codes of procedure. Each State recognizes the judgments of the courts of a sister State, gives credit to its public acts and records, and delivers up to its justice any fugitive from its jurisdiction, permitting him, moreover, to be (if necessary) tried for some other offense than that in respect of which his extradition was obtained. It is almost needless to point out that such a variety of tribunals in such relations to one another furnishes ample security against what is opprobriously designated “judge-made” law. Indeed, party feeling might, in causes falling successively under the jurisdiction of judges politically opposed, correct by the bias of one the bias of another; and it seems as if at times it actually worked in that way, securing absolute impartiality and the prevention of indirect legislation.

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Nevertheless, it remains sadly true that in several epochs and in several sections of the country unscrupulous party managers have allied themselves with unscrupulous moneyed interests to prevent justice by the corruption of the courts; and, while these unholy combinations have been in time utterly routed and destroyed, yet the memory of their existence has created a demand, not wide-spread and as yet inchoate, but nevertheless real, for the recall of elective judges by popular vote.

No one doubts that these three influences—popular election, short term, and low pay—tend to prevent the ablest lawyers from accepting judgeships and so lower generally the tone of the judiciary. Theoretically, this consideration seems specious. In fact, there are two other considerations which so modify it as almost, though not quite, to offset it. The first is the passion for honor and title. Many a man of comfortable means will accept office for half, or less than half, his average income as a lawyer *plus* the honor; this example is so infectious that even the finest prospects at the bar are abandoned for the dignity of the bench. The second consideration is the bar itself. The American bar is not a chartered or privileged corporation, and a great minority of mediocre and even unworthy men crowd its swollen ranks. But within it are scores of voluntary associations, local, State, and national, composed mainly of admirable, able, conscientious lawyers zealous for the dignity and honor of their profession. These bar associations all establish executive committees, which scrutinize the quality of practising lawyers and, where unprofessional or tricky behavior can be noted and proven, ruthlessly secure the disbarring and degradation of the culprits.

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There is thus a steady, conscientious purge of the bar, and this reacts on the bench. Clean, able lawyers simply will not plead before unscrupulous, stupid, ignorant judges.

This respect for the profession is both innate and acquired, common to skill and ability in any occupation, and is nowhere more vigorously efficient than among lawyers. There is some truth in the assertion that lawyers govern the United States. The nature of their training and the avocations of their practice make them proficient politicians. The boss is not as a rule a lawyer even by training; locally he is a tavern-keeper or a dealer in some commodity of general use, is so occupied as to have constant intercourse with the local populace. But the lawyers keep the boss's activities under constant scrutiny, render valuable service, positive or negative, in petty politics, and so manage that the nominees for judicial positions are in every legal instance and stage of importance somewhat better than those who put them forward, while at the same time they are not so elevated in character and distinguished in manner that, when elected, they lose touch with the public, which feels directly and heavily their administration of the law. Paradoxical as it may appear, the influence of party on legal procedure in all its branches is at least to keep the standard from becoming utterly base, as it has so often been under the system of appointments or of a civil service. It may not rise so high, but it does not fall so low as when the ideals of abstract and absolute right get themselves encysted in hypocritical parasites who secure appointive place by sycophancy.

XXXVII

PARTIES IN STATE AND CITY GOVERNMENT

Relations of States and cities—The State and national caucus—Failures in city government—The disadvantage of American cities—Corresponding superiority of foreign cities—The victories and defeats of city government in America—Methods of reform—The tide of public opinion.

FROM the general point of view State governments have enormous power: chief control of taxation, of local government, of an almost complete jurisprudence, both civil and criminal. These functions are organic in all States, but practically identical in no two, so widely does the population of each differ from that of every other in origin, tradition, and temperament. For both of these reasons it might be imagined that there would be State as well as national parties; but such parties do not exist, not even in the monster aggregations of population known in America as cities. Powerful as is the sectional, State, and local patriotism, the influence of nationality is omnipotent; national partisanship obliterates local, and while minor parties originate in sectional feeling, the two-party system of national politics maintains an undisputed ascendancy always and everywhere throughout the Union. State legislatures, city councils, and township committees do their work as integral portions of the national party system. The outcome is neither wholly bad nor

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wholly good. The reason is plain: the minor powers perform locally so much of the work of governing that quality in administration depends far more on them than on a staff of officials and a legislature at the State capitol, who are chosen for short terms, have duties carefully circumscribed by law, and among whom, including the governor, there is no opportunity to consider broad policies. Such State policy as there may be is formed in the two branches of the legislature; but these are under the control of the leader or the caucus. By their initiative a body of statutory law so extended and minute has thus been enacted that the governor is the executive, not of the people, but of the legislature. The governor by his veto power may check, but he cannot control. In the frequent instances where powerful men in the office exhibit qualities of the highest statesmanship the work is done against flagrant wickedness in high places by the concentration of public opinion, the exposures of legislative committees, and the efficiency of the courts.

In describing the working of national party machinery some reference has been made to the caucus, a device to unify party action operative with terrific vigor down to the Civil War, and thereafter to the present day. Now, however, the organization has become so complete that resort is had to the caucus infrequently and only when leaders lose their control either from quarrels among themselves or because they cannot quell the revolt of "insurgents," who may, on the one hand, be high-minded men seeking reform, or, on the other, base, discredited, and exiled politicians seeking to regain place and power. The caucus is an assembly of sitting representatives from a single party summoned to choose candidates

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for legislative positions, consider particular party measures, and determine methods of action. Those who participate are considered bound by the decision of a majority vote; the compulsion to attend is not absolute, and some abstain, but it is apt to go hard at home with any ambitious statesman who can be stigmatized as a "bolter." To harmonize divergent elements and secure concerted action, the caucus performs the duty of a British premier. But its secret sessions are the scene of the only real debates; deep feeling is aroused, and the majority is too often the dictator, stripping from minority Senators and Representatives, State or national, all the powers which they are bound to exert in public and on the floor of the legislative assemblies. Inasmuch as the formation of committees is determined by the hierarchy of leaders, or by the caucus, or by both, it does happen that the few dominate legislation for the entire community, and degrade at times even the majority of representatives to mere voting machines. These results of caucus rule are proportionate to the respective powers of the legislatures which it controls. In the State legislatures it adumbrates its prototype at Washington. When these are corrupt the abuses of the caucus are more shocking, but generally there is no such bitter partisanship in actual legislation; and since there are in State politics but few party measures, while candidates for office are selected by the synod of bosses, the caucus has little to do and is infrequently summoned. Discussion even in caucus is not desired by the "machine," and, as has been remarked, after all, "caucus" spells debate. The Speaker of the House and the organization control legislation in the State capitols exactly as do the corresponding powers in Washington.

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This combination is the epitome of the party system and is the party "whip"; under its lash men vote against their convictions and place the responsibility on an irresponsible, extra-constitutional body, enabling corrupt machines of both parties to bargain for the advantage of cliques and persons, to the detriment of the public welfare.

All this is germane to the operations of popular government in American cities. The word "city" is clearly defined as regards the United States; but it does not in any sense connote the idea attached to the word in European countries. Yet comparisons of the two are so regularly and persistently instituted on both sides of the ocean that popular government in American cities is stigmatized as the worst of many blots on the scutcheon of democratic rule. Three reasons are given: that Americans are too busy with their private affairs and neglect their civic duties; that voters do not vote; that when they do they are primarily interested, not in municipal business, but rather in the maintenance of national partisanship. Appearances support this pessimistic view: the city governments are, in a high degree, miniatures of the State governments, with executive, legislative, judiciary, and a great number of functionaries; there is constant reference to every official as adhering to one or another of the great national parties. Identically the same methods are used in national, State, and city politics by base men to secure base ends, and where the public powers are debauched the same machinery is set in motion to prevent the punishment of malefactors. The whole system of municipal government is held up to scorn as our single most conspicuous political failure. Now it is a simple fact that not one of these

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indictments is true. What is more, the excellent results to be enumerated shortly are attained against obstacles and hindrances unknown to the cities of Europe.

These obstacles are grave. American cities are new, and the growth of urban population being even more rapid than in Europe, they have no homogeneity of population nor continuity of tradition. In the second place, they are the administrative creations of the State governments, which are mainly composed of men engaged in agriculture, living in villages or on farms, who distrust what they do not know and fix the sternest legal bondage on the portentous aggregations of humanity known as cities; these legislators, moreover, are often the tools, conscious or unconscious, of highly organized special interests, industrial and financial. Just as raw, crude newness has prevented the adoption of great plans for city commodiousness, so wardships to the State prevent the control of public utilities in the general interest. The powers of the city are more routine in their functions than those of the State. Another terrible burden on the American municipality is the universal trouble of enforcing sumptuary and excise laws, laws which are abhorrent, whether for right or wrong, to the overwhelming majority of its inhabitants. State laws are intrusted for enforcement to city officials, chosen by city voters assured in advance that their candidates will be lax in the performance of hateful duty. It requires no flight of fancy to see how this debauches the police force. The admixture and conflict of interests at the State capitol likewise make possible the enacting of laws which confuse the people by their intricacy and wordiness, and which can be understood and worked

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only by the small class of professional politicians who make a living, small or ample, by practices which are possible to them alone because of their superior skill in evasion. Finally there is the multiplicity of names on the ballot. Elections are frightfully expensive, entailing as they do so much campaigning, so many officials, such a mass of printing, and the rent of voting-booths. For economy's sake it has been well-nigh universal to hold national, State, and city elections on the same date. The long, cumbersome ballot (forty to fifty names in each column) confuses the ignorant and alien voter, perplexes even the most intelligent, and destroys any possibility of scrutinizing the personal merits of candidates. It is the delight of the professional, tricky politician, the despair of the honest citizen.

From every one of these drawbacks the European city is free. Generally considered, the cities of the Old World are themselves old. Their populations are homogeneous, the people have the tradition of city life, and not that of the fields. They are not overcrowded with aliens and untrained industrial workers, they do not parallel ours in congestion and density of population. Moreover, they were planned in some form at the very beginning: even as medieval cities there was design, as modern towns the habit of planning persisted and faubourgs were carefully studied: as contemporary municipalities foresight is constantly exercised. They are not aggregations due to private enterprise; individual interest and taste has always been subservient to public advantage. And this because they were free, autonomous, as were the ancient cities, with the sense of burgher liberty. Within the sphere of city life they have exercised complete control over all that makes

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for the comfort, health, and artistic development of their inhabitants. Hence from the outset there was an evolution of civic pride and civic devotion, a subordination of personal choice to public wants; there was and is rivalry between towns in competition as centers of commerce, education, art, and general culture. Such sovereign communities can do with ease what hampered ones accomplish with pain and difficulty: beautify suburbs, acquire and develop park-lands, control transportation, purchase intercity and interborough railways, build and subsidize theaters, control waterfronts and water-powers. They are not in perpetual servitude, they can exercise the taxing power, highest of all, and set their own limits to their bonded indebtedness. Forty per cent. of the great German and British cities own their public utilities, so that no secret complot between great companies and a venal proletariat can debauch the service. The millions of recent settlers in the United States were in their former homes accustomed to a control from above under which they chafed. In this country they remain for the most part in large cities and towns: the school of instruction in self-government is a hard one for those of longer residence and larger interests, who are not trained to instruct, however well disposed the newly arrived pupils may be. It is hard enough for the most intelligent stranger to comprehend the reversal which in America evolves power below and operates it toward the top; how almost impossible does it prove for the peasant, the denizen of the ghetto, or even the trained artisan and little shopkeeper!

Yet the victories of city government in America, hampered as it is in all the ways enumerated, are noteworthy. The public order, safety to life, limb,

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and property, are just as completely safeguarded as in the cities of the Old World, while the numbers of the police are relatively much less. The social evil is proportionately less, and nowhere flaunts itself as it does in London, Paris, or Berlin; being without inspection or any form of official recognition, it is kept in decent obscurity, and even the rankest weeds do not thrive in the dark. There are court quarters of the three most conspicuous European capitals within which paving, lighting, and street-cleaning are better than in any corresponding district of our own metropolitan cities, but personal examination convinces me that the other districts are in American cities better, and the general average quite as high. The public health and the death-rate, the water-supply and the sewage distribution, the park systems, all compare favorably. In all these respects, as in others, much, very much, is still to be done. But there are a few, at least, of the focal departments in city administration for which we claim eminence. City taxes in America are more equitably laid and more simply collected than elsewhere; the burdens are more evenly distributed. Our example of assessing land at its capital and not its rental value has been widely followed, especially in Prussia. Land out of use in British cities pays nothing, and consequently the poor contribute more than a fair share of municipal expenses. The incidence of taxation, in spite of all scientific investigation, is still a mystery; but when one city, New York, collects and disburses \$192,711,441 yearly—a sum larger than any other municipality budget, and larger than all the “unearned increment” taxes of German cities combined—it must be confessed that the system of city taxation in America is fairly equitable and un-

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commonly efficient. We have to admit that there is an element of spoils, and that for that reason the rate is higher than necessary. The enormous public works of American cities are apportioned to contractors closely allied with the political party machine, and in the contracts there is frequently an added profit, known as "graft" or the political "rake off." Nevertheless, the work is well done, while the invention and initiation of new public works, through the concern of interested politicians and contractors, makes in the main for beauty and commodiousness in city life. The method known as "acceleration of public opinion"—that is, the employment of speakers and newspaper writers to create, if not a demand for, at least a complacent assent to these great enterprises—has long been in use.

But such public opinion sometimes takes a most unexpected turn, and in some hundreds (about one hundred and forty in 1910, two hundred and ninety-three in 1914) of American cities has resulted in a virtual elimination of the party machine from city government. An almost overwhelming disaster in the shape of flood and tide well-nigh destroyed, in 1900, the harbor city of Galveston in Texas. Its merchants selected a small commission of efficient men to rebuild the port and the town, without reference to politics and with complete legislative and administrative power. The State of Texas gave its consent. Their success was so signal as to attract national attention, and the plan commended itself in many places where the devastation by human corruption was comparable to that of raging nature. Such commissions were selected to uproot the spoils evil and give the taxpayers their money's worth on

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a sound business basis. Consisting sometimes of three, sometimes of five upright, self-sacrificing business men who divide between themselves all the necessary departments, they have for the most part been eminently successful in giving admirable government to their towns. For this the necessary legislation has been secured in thirty-eight States, and more are soon to follow. Others which are not yet ready to take so radical a step have devised other schemes to minimize waste and inefficiency, while not destroying utterly the party machinery in great cities where spoils are so rich. These require the short ballot, a small council, appointment by the mayor of expert subordinates without regard to party, a concentration of powers in a responsible mayor, and full publicity of accounts. In some the powers of the "boss" are legally recognized and given to the mayor, as in New York; in others city charters are so framed as to have permanence and grant a very extended sovereignty to the municipality in its own affairs; in others the party primaries have been so legalized as to give the voters the power of direct nomination, to which, in spite of the cumbersome, expensive machinery of elections, there is often added the power of recall by popular vote; still others, undismayed by difficulties, adjoin to the ballot the referendum for every important city ordinance.

These reforms are, of course, inchoate, but they are steadily spreading, and there is a universal recognition of needed change which proves an ever-growing community of interest in the citizens of each town or city without regard to party. The improvement was, of course, imperative before the reforms came, and now public opinion is insatiate

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and importunate. It is strengthened in hope and power by what was previously accomplished in spite of obstacles, and often by private initiative through the voluntary association and personal generosity of public-spirited men. The library system of American cities has long been a model, and in the development of public libraries, extension of branches and free-lending circulation, in the opening of reading-rooms, use of pictures and children's departments, we showed the way. The same has been true regarding the public or common free schools; the establishment of free lectures and concerts; the use of school-houses for social work, until they are open sixteen hours a day; the opening to the masses of playgrounds; free kindergartens and free instruction in play. Our park systems vie with any in the world. The fire departments of American cities have long been studied by strangers for their efficiency, having never fallen into the clutches of spoils-men. Finally we have begun vigorously to make our cities more beautiful. Our city founders and builders were concerned with utilities, with the city plant, which had to be provided in haste with a corresponding serious waste. They had little foresight for beauty. But the demand for beauty has come and is imperious. Before this sweeping popular movement for health, commodiousness, and beauty, the hold of party machinery on the cities is perceptibly and steadily weakening.

XXXVIII

PARTIES AND THE PUBLIC DEFENSE

Size of army and navy in peace and war—Influence of professional militarism—Politics in the State militia and volunteer services—Politics in time of war—Indirect influence of parties on the national defense—The pension system and party politics—Demoralizing effects of the pension system—Departments of public service untouched by party strife—West Point and Annapolis—Achievements of their graduates—Party influence molded by foreign relations.

THE army and the navy of the United States are comparatively small, though very costly. This is because the administrative staff is large enough for a force three times the present size, thus forming an emergency establishment ready to fill the cadres at short notice in time of war. It is estimated that in the present year (1914) there are ninety thousand officers and men in the army and somewhat under fifty-eight thousand in the navy. The cost of the former is just under a hundred and twenty, of the latter just over that many million dollars. Both are efficient as far as they go, both are recruited by voluntary enlistment, and the navy ranks in strength with that of the German Empire (though inferior on paper), after that of Great Britain. There is, of course, some patronage in connection with both services, yet party affiliation influences neither officers nor men to any extent, since those who serve feel

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profoundly the point of honor that they may neither question commands nor use influence of any kind to promote their interest above their merit. Admittedly, political "pulls" go for much in securing the prizes of both services in the shape of assignments for duty; but beyond that politics does not go, within the organizations, either in time of peace or of foreign war.

The influence of professional militarism has always reacted on the parties. As we have noted, there were epochs when there were actual peace and war parties, and in the throes of the great Civil War the machinations of politicians within the services were incessant. There was a current phrase, "the political general," to indicate advancement by influence and not for merit or seniority. But with politics rife at the center of power neither arm of the service was greatly injured, although the course of affairs was unduly prolonged by the purely civil and partisan struggle for the restoration of the Union with slavery. The hot antagonism roused over that momentous question continued for many years, but in the latest war, which was foreign, men who had been active in the Confederacy fought side by side with those devoted to the Union throughout the Civil War, and there was no trace of party rancor among any. The regular national war force by land or sea is almost entirely unpartisan, at least the effect of party politics on its efficiency is negligible.

With regard to the State militia and volunteer land forces raised and equipped under the war powers of the President the situation has not been so clear. The militia is the body of men in each State raised, equipped, and trained at the cost of the State, en-

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listment being voluntary and accompanied by various civil privileges, as, for example, freedom from jury duty. The officers of each company and regiment are the choice of the rank and file; but their commissions are issued by the governor as head of the military establishment in his own State. As such he has a staff, and there is a general administrative military bureau. Such militia regiments or groups of citizen soldiery are sometimes composed overwhelmingly of men from a single party or one social rank, or one ecclesiastical connection, and thereby become a political force in one direction or another. In securing the most conspicuous positions at headquarters, politics, therefore, frequently enters in.

The President may under certain restrictions summon the militia to serve outside the limits of their respective States; for the purpose of executing the laws of the United States, suppressing insurrection or repelling invasion. Here again party influence is sometimes exerted to secure or avoid participation in such warfare. As to the volunteer forces of the Union, there has always been the liveliest partisan struggle for appointments, contracts, commissions, commands, everything connected with their organization and maintenance. In moments of crisis this has worked disastrously in creating delay and promoting inefficiency. It may again, and no reform is more imperative than one which would automatically create a citizen soldiery to meet any emergency which might arise. The increase of the standing army is not prevented by political or partisan considerations, but by the deep-seated, immutable distrust of increasing in a popular government the war strength of constituted authority. The Second Amendment of the Constitution asserts the

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right of the people to keep and bear arms for the defense of their rights.

Indirectly, perhaps, but very unhappily, party government further influences the national defense. This has been due to the expansion of a pension system, which was good and just in moderation, into an intolerable abuse as now administered. At the present moment, nearly fifty years after the close of the Civil War, about a hundred and sixty million dollars are annually distributed among the survivors of those who saw service of any kind in that struggle on the Northern side, without regard to their necessities or to disabilities incurred by wounds or sickness. By 1890 two-thirds of the war debt was paid, and there was still in force the high protective tariff which most Republicans believed was the cause of great prosperity, and which was certainly the source of enormous revenue to the government. The reunited country had always felt and shown profound gratitude to those who preserved the Union. The liberal pension grants then disbursed had been legalized by the Republican party, until that date practically dominant. But it had drawn to its membership during its long, unbroken tenure of power many corrupt politicians who had injured its name and fame, and the Democrats were growing into a strong opposition. The soldier vote must be held for the Republicans, and here was a corruption fund ready at hand. The pension bill passed in that year increased the government budget to such an extent as almost to wipe out the surplus and prevent agitation for downward revision of the tariff. With some modifications, mostly in the direction of enlarging the body of recipients, the act has remained a law; even the Democrats when in power have not

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dared to repeal it, lest they appear disloyal to the Union, and they have very lately given active support to the system for their own party purpose. Now it can easily be seen that the spectacle of a rapidly diminishing class in receipt monthly of government bounty proportionately larger at each term, reacts powerfully upon what is styled a democracy, tending to discredit representative government and to breed further forms of socialism where so extraordinary a distribution of public wealth to a privileged class apparently meets with general approval, or is at least considered expedient by the majority of both parties.

The influence of the pension system is confusing and demoralizing, for it penetrates every community of the Northern States; the acquiescence of the Southern States in a distribution of spoils, from which they receive nothing for the old Confederate soldiers, while paying their proportionate share, is a dangerous symptom of apathy. For an entire generation of men their citizens have been loyal and enthusiastic Unionists; every vestige of war taxes, war devices, and war feeling should be wiped out by limitation and for the general good. The few survivors of the Civil War who are really indigent could be made comfortable and self-respecting without flaunting a political scandal before the eyes of the nation and the world. Probably the darkest blot on the party government in the United States is the creation and perpetuation of a scandal in connection with the national defense to no other end than the corruption of voters. The stupendous sum involved is, moreover, a discouragement to the taxpayer, and rouses gratuitous bitterness against a government which tolerates such abuse. But its worst influence,

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direct and indirect, is on the annual appropriations for fleet and army. Quite correctly and instinctively the pension spoils are reckoned by the masses as a portion of war expenditure in time of peace. So monstrous is the amount that bills for securing power and efficiency in the national defense are most difficult to pass, and the obstructors find applause for their words and conduct among the millions who are crying for economy and efficiency. Party strife, party corruption, party spoils are phrases with some meaning to laborious millions, delighting in the game of politics, willing to pay the legitimate expense of the sport, but furious with abuses which impose on them an intolerable burden of taxation. Their first idea is that the country can dispense with troops and fleets. Their confidence in the God of battles is expressed in the gambling spirit of trust in luck when the emergency arises.

This appears to an American as the worst and, in fact, the whole total of danger to the national defense in connection with party government. On the other hand, were the discussion within our subject some things could be enumerated making for tremendous efficiency which arise from the self-denial of parties and party workers. There are vast tracts of public service which are not invaded by them at all, notably the great bureaus of scientific research which have been organized in Washington—the Geological Survey, the Coast and Geodetic Survey, the Smithsonian Institution for the dissemination of knowledge; the government of the District of Columbia by a committee of Congress is non-partisan and is entirely free from spoils abuses of any kind. There is no better lighthouse service nor life-saving service nor harbor-fortification system in any country. In-

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asmuch as both parties are peace parties, there is no general preparedness for war, and no call for it as a principle of either. There is divergence of opinion in both parties, as has been said, regarding the question of a great or a moderate-sized fleet, but the division line on this question does not correspond with either party. In both there is great jealousy of privilege in the service.

The federal government maintains two institutions for the training of officers—one at West Point, in the State of New York, for the army, the other at Annapolis, in the State of Maryland, for the navy. In each there are approximately three hundred cadets, between the ages of seventeen and twenty-two, nominated by members of Congress and appointed by the President. Naturally, many of the appointments are political, though it is becoming more and more common for Congressmen to select their nominees by competitive examinations open to all youths of proper age and physical fitness in their respective districts. Those who graduate constitute an élite body of officers in both services. But such is the jealousy of privilege and social standing thus secured that men may and many do rise from the ranks by reason of diligence and the cultivation of high character. This fact introduces into the corps of officers an essentially democratic element. Once in the service, men are forbidden all political activity, though they do not, of course, become neutral in politics, exercising the common privilege of citizens at the polls according to their convictions. Possibly their partisan complexion may, as has been said, influence their selection for promotions; but this influence is very slight.

The great military and naval boards are neces-

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sarily composed of graduates from the two academies; so eminent are many in civil engineering and naval construction. The plans for battle-ships, the navy-yards or private ship-yards where they are built, their testing and subsequent acceptance, as well as their final use at sea, all are controlled by the graduates of Annapolis. The greatest engineering enterprise of the age, the Panama Canal, was entirely conducted by army officers; the sanitation of tropical lands under American influence is the standard of the Western Hemisphere, and has been the work of army and navy medical officers. These, with other such achievements as the world cruise of the American fleet, convince the American people that the public defense and the public service generally are efficient and not affected detrimentally by partisanship. In the delicate arrangements of international relations the higher officers of the navy, necessarily clothed at all times with ordinary and sometimes, in acute crises, with extraordinary diplomatic character, have in the main acquitted themselves with the highest distinction. Witness the opening of Japan to Western influences, the Koszta affair, the Kossuth incident, and other equally delicate matters of foreign politics. In the management of all vital questions regarding national honor, the grand strategy of national defense, and generally in such affairs as engage American interests, both maritime and continental, the people have had every reason for confidence and pride in the soldiery they provide, not for attack, offense, or glory, but solely that they may live in peace and dignity within their own borders.

If there be, as is generally held, a manifest diminution in the efficiency of party government, one

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cause will be found in the passionate interest now shown in foreign affairs. Divisions of opinion with regard to domestic affairs have hitherto tended to complete organization and marked discipline in party action. But the feeling is universal that in the face of other nations there must never be an exhibition of divided loyalty. Between both parties there must be cohesion for purposes of resistance in case of attack and for readiness to defy menace. Controversy, therefore, is to be avoided in all such matters, and where there is no strife of opinions about foreign affairs there can be no inductive current of strong party feeling in regard to secondary and internal policies. The armed peace of the world on a conservative basis costs annually eighteen hundred million dollars, of which the United States pays over one-ninth, two hundred and twenty millions all told, nearly as much as either Great Britain or Germany and more than France. But there is no murmuring in America except as to the pension waste already mentioned, which adds a hundred and sixty millions. It was a Democratic President who brought us to the verge of war with Great Britain, and a Republican who, under the compulsion of noisy journals and frothy demagogues, conducted the Spanish War. There are some indications that both believed themselves backed by strong, definite public opinion, but it never was expressed, and probably did not exist. Yet both found undivided national support in the respective crises, and, perplexing as have been the problems entailed, the nation has approved the patient study of them by its officials and accepts the solutions announced by the respective administrations as final. There exists a wide-spread desire for the emancipation of the Philippines from Ameri-

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can administration; but those who feel it belong to both parties in fairly equal numbers. American imperialism has, at least as far as this, absorbed the political energy of the country to such an extent as to endanger the division of voters on lines of domestic policy; but, after all, "doorstep interests" are more vital to the average plain citizen than any others more remote, however stupendous; and, while party strife may be diminished by foreign policies, it is not likely to be entirely abolished.

APPENDIX A

ARTICLES OF CONFEDERATION

Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

ARTICLE I.—The style of this Confederacy shall be, “The United States of America.”

ARTICLE II.—Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

ARTICLE III.—The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ARTICLE IV.—The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce subject to the same duties, impositions, and restrictions as the inhabitants

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thereof respectively; provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State to any other State of which the owner is an inhabitant; provided also that no imposition, duties, or restriction shall be laid by any State on the property of the United States or either of them. If any person guilty of, or charged with, treason, felony, or other high misdemeanor in any State shall flee from justice and be found in any of the United States, he shall, upon demand of the governor or executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offense. Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

ARTICLE V.—For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year. No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States for which he, or another for his benefit, receives any salary, fees, or emolument of any kind. Each State shall maintain its own delegates in any meeting of the States and while they act as members of the Committee of the States. In determining questions in the United States in Congress assembled, each State shall have one vote. Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonments during the time of

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their going to and from, and attendance on, Congress, except for treason, felony, or breach of the peace.

ARTICLE VI.—No State, without the consent of the United States, in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state; nor shall the United States, in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States, in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States, in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any State, except such number only as shall be deemed necessary by the United States, in Congress assembled, for the defense of such State or its trade, nor shall any body of forces be kept up by any State in time of peace, except such number only as, in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use in public stores a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war without the consent of the United States, in Congress assembled, unless such

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State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States, in Congress assembled, can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States, in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States, in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States, in Congress assembled, shall determine otherwise.

ARTICLE VII.—When land forces are raised by any State for the common defense, all officers of or under the rank of colonel shall be appointed by the legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

ARTICLE VIII.—All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States, in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of land within each State, granted to, or surveyed for, any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States, in Congress assembled, shall, from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several States, within the time agreed upon by the United States, in Congress assembled.

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ARTICLE IX.—The United States, in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth Article; of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatever; of establishing rules for deciding, in all cases, what captures on land and water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts for receiving and determining finally appeals in all cases of captures; provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States, in Congress assembled, shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent of any State in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United

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States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned; provided that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward." Provided also that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdictions, as they may respect such lands, and the States which passed such grants, are adjusted, the said grants or either of them being at the same time claimed

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to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States, in Congress assembled, shall also have the sole and conclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated; establishing and regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States, in Congress assembled, shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated, "A Committee of the States," and to consist of one delegate from each State, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside; provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills

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on the credit of the United States, transmitting every half-year to the respective States an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State, which requisition shall be binding; and thereupon the legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled; but if the United States, in Congress assembled, shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the legislature of such State shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled.

The United States, in Congress assembled, shall never engage in war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief

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of the army or navy, unless nine States assent to the same, nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States, in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations as in their judgment require secrecy; and the yeas and nays of the delegates of each State, on any question, shall be entered on the journal when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several States.

ARTICLE X.—The Committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States, in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said Committee, for the exercise of which, by the Articles of Confederation, the voice of nine States in the Congress of the United States as assembled is requisite.

ARTICLE XI.—Canada, acceding to this Confederation, and joining in the measures of the United States, shall be admitted into, and entitled to, all the advantages of this Union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

ARTICLE XII.—All bills of credit emitted, moneys borrowed, and debts contracted by or under the authority of Congress, before the assembling of the United States, in pursuance of the present Confederation, shall be deemed and considered as a charge against the United States, for

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payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ARTICLE XIII.—Every State shall abide by the determination of the United States, in Congress assembled, on all questions which by this Confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterward confirmed by the legislatures of every State.

AND WHEREAS it hath pleased the great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress to approve of, and to authorize us to ratify, the said Articles of Confederation and perpetual Union, know ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual Union, and all and singular the matters and things contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States, in Congress assembled, on all questions which by the said Confederation are submitted to them; and that the Articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual. In witness whereof, we have hereunto set our hands in Congress. Done at Philadelphia, in the State of Pennsylvania, the ninth day of July, in the year of our Lord 1778, and in the third year of the Independence of America.

APPENDIX B

CONSTITUTION OF THE UNITED STATES OF AMERICA

PREAMBLE ¹

WE the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I. LEGISLATIVE DEPARTMENT

Section I. Congress in General ²

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section II. House of Representatives

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

2. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall

¹ Compare the Preamble with Confederation Articles I and III.

² Compare Article I, §§ I-VII, with Confed. Art. V.

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not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

Section III. Senate

1. The Senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof for six years, and each senator shall have one vote.¹

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expira-

¹Altered by Seventeenth Amendment.

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tion of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen, by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a president *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the chief justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

Section IV. Both Houses

1. The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing senators.

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2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section V. The Houses Separately

1. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither house during the session of Congress shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Section VI. Disabilities of Members

1. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

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2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

Section VII. Mode of Passing Laws

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and

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before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

*Section VIII. Powers granted to Congress*¹

The Congress shall have power:

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States;

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post-offices and post-roads;

8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

¹ Compare §§ VIII and IX with Confed. Art. IX; clause 1 of § VIII with Confed. Art. VIII; and clause 12 of § VIII with Confed. Art. VII.

APPENDIX

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

Section IX. Powers denied to the United States

1. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year

PARTY GOVERNMENT

one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or *ex post facto* law shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.¹

5. No tax or duty shall be laid on articles exported from any State.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

*Section X. Powers denied to the States*²

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.

¹ Compare Article I, § X, with Confed. Art. VI.

² Modified by Sixteenth Amendment.

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2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of the Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II. EXECUTIVE DEPARTMENT ¹

Section I. President and Vice-President

1. The executive power shall be vested in a President of the United States of America.

He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected, as follows:

2. Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the Congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

3. [The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they

¹ Compare Article II with Confed. Art. X.

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shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the Senate. The president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then, from the five highest on the list, the said house shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.] ¹

4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the

¹ Altered by the Twelfth Amendment.

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powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed, or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:

“I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect, and defend the Constitution of the United States.”

Section II. Powers of the President

1. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not

PARTY GOVERNMENT

herein otherwise provided for and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

Section III. Duties of the President

He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them; and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section IV. Impeachment of the President

The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III. JUDICIAL DEPARTMENT ¹

Section I. United States Courts

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the

¹The Confederation had no such provision as Article III of the Constitution, except the attempt to make a congressional court in Confed. Art. IX.

APPENDIX

Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Section II. Jurisdiction of the United States Courts

1. The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.¹

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Section III. Treason

1. Treason against the United States shall consist only in levying war against them, or in adhering to their ene-

¹ Altered by the Eleventh Amendment.

PARTY GOVERNMENT

mies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV. THE STATES AND THE FEDERAL GOVERNMENT ¹

Section I. State Records

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section II. Privileges of Citizens, etc.

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

¹ Compare Article IV with Confed. Art. IV.

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Section III. New States and Territories¹

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

Section IV. Guarantee to the States

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and, on application of the legislature, or of the Executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V. POWER OF AMENDMENT²

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thou-

¹ Compare Article IV, § III, with Confed. Art. XI.

² Compare Article V with Confed. Art. XIII (last sentence).

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sand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first Article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI. PUBLIC DEBT, SUPREMACY OF THE CONSTITUTION, OATH OF OFFICE, RELIGIOUS TEST ¹

1. All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution, as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding.

3. The senators and representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII. RATIFICATION OF THE CONSTITUTION

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in convention by the unanimous consent of the States present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven and of the Independence of the United States of America the twelfth.

¹ Compare Article VI, clause 1, with Confed. Art. XII; and clauses 2 and 5 with Confed. Art. XIII and addendum, "And whereas," etc.

APPENDIX

AMENDMENTS TO THE CONSTITUTION

ARTICLE I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual ser-

PARTY GOVERNMENT

vice in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI

In all criminal prosecutions, the accused shall enjoy the right of a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

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ARTICLE X¹

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

ARTICLE XI²

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

ARTICLE XII³

1. The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the president of the Senate; the president of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed;

¹ Compare the Tenth Amendment with Confed. Art. II. The first ten amendments were proposed by Congress September 25, 1789, and declared in force December 15, 1791.

² Proposed by Congress March 5, 1794, and declared in force January 8, 1798.

³ Proposed by Congress December 12, 1803, and declared in force September 25, 1804.

PARTY GOVERNMENT

and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately by ballot the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of death or other constitutional disability of the President.

2. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII¹

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

¹ Proposed by Congress February 1, 1865, and declared in force December 18, 1865.

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ARTICLE XIV¹

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a senator or representative in Congress, or elector of President or Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to the enemies thereof. But Con-

¹ Proposed by Congress June 16, 1866, and declared in force July 28, 1868.

PARTY GOVERNMENT

gress may, by a vote of two-thirds of each house, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV¹

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.

2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI²

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

ARTICLE XVII³

1. The Senate of the United States shall be composed of two senators from each State, elected by the people

¹Proposed by Congress February 26, 1869, and declared in force March 30, 1870.

²Proposed by Congress July 12, 1909, when the House passed the joint resolution of submission which had been passed by the Senate on July 5th, and declared in force February 25, 1913.

³Proposed by Congress May 13, 1912, when the House concurred in the Senate amendment, and declared in force May 31, 1913.

APPENDIX

thereof for six years; and each senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

2. When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: provided that the legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

3. This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the Constitution.

APPENDIX C

ADMISSION OF THE STATES ¹

- | | |
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| <ol style="list-style-type: none"> 1. Delaware,² Dec. 7, 1787. 2. Pennsylvania,² Dec. 12, 1787. 3. New Jersey,² Dec. 18, 1787. 4. Georgia,² Jan. 2, 1788. 5. Connecticut,² Jan. 9, 1788. 6. Massachusetts,² Feb. 6, 1788. 7. Maryland,² April 28, 1788. 8. South Carolina,² May 23, 1788. 9. New Hampshire,² June 21, 1788. 10. Virginia,² June 26, 1788. 11. New York,² July 26, 1788. 12. North Carolina,² Nov. 21, 1789. 13. Rhode Island,² May 29, 1790. 14. Vermont, March 4, 1791. 15. Kentucky, June 1, 1792. 16. Tennessee, June 1, 1796. 17. Ohio, Feb. 19, 1803. 18. Louisiana, April 30, 1812. 19. Indiana, Dec. 11, 1816. 20. Mississippi, Dec. 10, 1817. 21. Illinois, Dec. 3, 1818. 22. Alabama, Dec. 14, 1819. | <ol style="list-style-type: none"> 23. Maine, March 15, 1820. 24. Missouri, Aug. 10, 1821. 25. Arkansas, June 15, 1836. 26. Michigan, Jan. 26, 1837. 27. Florida, March 3, 1845. 28. Texas, Dec. 29, 1845. 29. Iowa, Dec. 28, 1846. 30. Wisconsin, May 29, 1848. 31. California, Sept. 9, 1850. 32. Minnesota, May 11, 1858. 33. Oregon, Feb. 14, 1859. 34. Kansas, Jan. 29, 1861. 35. West Virginia, June 19, 1863. 36. Nevada, Oct. 31, 1864. 37. Nebraska, March 1, 1867. 38. Colorado, Aug. 1, 1876. 39. North Dakota, Nov. 2, 1889. 40. South Dakota, Nov. 2, 1889. 41. Montana, Nov. 8, 1889. 42. Washington, Nov. 11, 1889. 43. Idaho, July 3, 1890. 44. Wyoming, July 11, 1890. 45. Utah, Jan. 4, 1896. 46. Oklahoma, Nov. 16, 1907. 47. New Mexico, Jan. 6, 1912. 48. Arizona, Feb. 14, 1912. |
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¹ The dates given, after the first thirteen States, are those upon which, according to U. S. census reports, the admission took effect.

² Ratified the Constitution and became States.

APPENDIX

APPENDIX D
SUMMARY OF POPULAR AND ELECTORAL VOTES IN PRESIDENTIAL ELECTIONS, 1789-1912.

Year	Number of States	Total Elect. Votes	Party	Candidates ¹	States	Popular Vote	Electoral Vote
1789	² 10	73		George Washington, John Adams, John Jay, R. H. Harrison, John Rutledge, John Hancock, George Clinton, Samuel Huntington, John Milton, Benjamin Lincoln, James Armstrong, Edward Telfair, Vacancies,		Prior to 1828 there was no regular practice in choosing presidential electors. Even then the calculation is only approximate, because a compilation from the returns of	69 34 9 6 6 4 3 2 2 1 1 1 4

¹ For the conditions of the presidential elections previous to 1824, see page 132.

² Three States not voting—*viz.*, New York, which had not yet passed an electoral law; and North Carolina and Rhode Island, which had not yet ratified the Constitution.

PARTY GOVERNMENT

APPENDIX D—Continued

Year	Number of States	Total Elect. Votes	Party	Candidates	States	Popular Vote	Electoral Vote
1792	15	135	Federalist, Federalist, Republican, “ “	George Washington, John Adams, George Clinton, Thomas Jefferson, Aaron Burr, Vacancies,		State elections for their re- spective legis- latures, which for the most part chose electors, would be misleading even if pos- sible.	132 77 50 4 1 3
1796	16	138	Federalist, Republican, Federalist, Republican, “ Independent, Republican, Federalist. “ “ “	John Adams, Thomas Jefferson, Thomas Pinckney, Aaron Burr, Samuel Adams, Oliver Ellsworth, George Clinton, John Jay, James Iredell, George Washington, John Henry,			71 68 59 30 15 11 7 5 3 2 2

APPENDIX

1800	16	138	Federalist, " Republican, " Federalist, " "	S. Johnson, Charles C. Pinckney, Thomas Jefferson, Aaron Burr, John Adams, Charles C. Pinckney, John Jay, Vacancies, 2			2 1 173 73 65 64 1
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¹ The disputed election of 1800; see page 78.

Year	No. of States	Total Elect. Vote	Party	For President	States	Popular Vote	Electoral	For Vice-President	Electoral
1804	17	176	Republican, Federalist,	Thomas Jefferson, Charles C. Pinckney,	15 2		162 14	George Clinton, Rufus King,	162 14
1808	17	176	Republican, " Federalist,	James Madison, George Clinton, Charles C. Pinckney, Vacancy,	12 5		122 6 47 1	George Clinton, James Madison, Rufus King, John Langdon, James Monroe,	113 3 47 9 3 1

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APPENDIX D—Continued

Year	No. of States	Total Elect. Votes	Party	For President	States	Popular Vote	Electoral	For Vice-President	Electoral
1812	18	218	Republican, Federalist,	James Madison, De Witt Clinton, Vacancy,	11 7		128 89 1	Elbridge Gerry, Jared Ingersoll,	131 86 1
1816	19	221	Republican, Federalist,	James Monroe, Rufus King,	16 3		183 34	D. D. Tompkins, John E. Howard, James Ross, John Marshall, Robt. G. Harper,	183 22 5 4 3
1820	24	235	Republican, "	Vacancies, James Monroe, John Q. Adams,	24		4 231 1	D. D. Tompkins, Rich. Stockton, Daniel Rodney, Robt. G. Harper, Richard Rush,	4 218 8 4 1 1
1824	24	261	Republican, "	Vacancies, Andrew Jackson, John Q. Adams,	10 8		3 155,872 105,321	John C. Calhoun, Nathan Sanford,	3 182 30

¹ The disputed election of 1824; see page 123.

APPENDIX

1828	24	261	Republican, “	Wm. H. Crawford, Henry Clay, Vacancy, Andrew Jackson, John Q. Adams,	3 3 15 9	44,282 46,587	41 37	Nathaniel Macon, Andrew Jackson, Martin Van Buren, Henry Clay,	24 13 9 2 1
1832	24	288	Democratic, Nat. Republican, Anti-Mason,	Andrew Jackson, Henry Clay, William Wirt, John Floyd,	15 7 1 1	647,231 509,097	178 83	John C. Calhoun, Richard Rush, William Smith,	171 83 7
1836	26	294	Democratic, Whig,	Vacancies, Martin Van Buren, Wm. H. Harrison, Hugh L. White, Daniel Webster, W. P. Mangum,	15 7 2 1 1	761,549 736,656	170 73 26 14 11	Martin Van Buren, John Sergeant, Amos Ellmaker, Henry Lee, William Wilkins,	189 49 7 11 30 2
1840	26	294	Whig, Democratic, Liberty,	Wm. H. Harrison, Martin Van Buren, James G. Birney.	19 7	1,275,017 1,128,702 7,059	234 60	R. M. Johnson, Francis Granger, John Tyler, William Smith, John Tyler, R. M. Johnson,	147 77 47 23 234 48

¹ R. M. Johnson chosen by the Senate: see page 149.

PARTY GOVERNMENT

APPENDIX D—Continued

Year	No. of States	Elect. Total Votes	Party	For President	States	Popular Vote	Electoral	For Vice-President	Electoral
1844	26	275	Democratic, Whig, Liberty,	James K. Polk, Henry Clay, James G. Birney,	15 11	1,337,243 1,299,068	170 105	L. W. Tazewell, James K. Polk, Geo. M. Dallas, T. Frelinghuysen,	11 1 170 105
1848	30	290	Whig, Democratic, Free Soil,	Zachary Taylor, Lewis Cass, Martin Van Buren,	15 15	62,300 1,360,101 1,220,544	163 127	Millard Fillmore, Wm. O. Butler, Chas. F. Adams,	163 127
1852	31	296	Democratic, Whig, Free Democracy,	Franklin Pierce, Winfield Scott, John P. Hale,	27 4	1,601,474 1,386,578 156,149	254 42	Wm. R. King, Wm. A. Graham, Geo. W. Julian,	254 42
1856	31	296	Democratic, Republican, American,	James Buchanan, John C. Frémont, Millard Fillmore,	19 11 1	1,838,169 1,341,264 874,534	174 114 8	J. C. Breckinridge, Wm. L. Dayton, A. J. Donelson,	174 114 8
1860	33	303	Republican,	Abraham Lincoln,	17	1,866,352	180	Hannibal Hamlin,	180

APPENDIX

1864	36	314	Democratic, Democratic, Const. Union, Republican, Democratic,	J. C. Breckinridge, S. A. Douglas, John Bell, Abraham Lincoln, Geo. B. McClellan, Vacancies, ¹ Ulysses S. Grant, Horatio Seymour, Vacancies, ² Ulysses S. Grant, Horace Greeley, Chas. O'Connor, James Black, T. A. Hendricks, B. Gratz Brown, Chas. J. Jenkins, David Davis,	11 2 3 22 3 11 26 8 3 31 6	845,763 1,375,157 589,581 2,216,067 1,808,725 3,015,071 2,709,613 3,597,070 2,834,079 29,408 5,608	72 12 39 212 21 81 214 80 23 286	Joseph Lane, H. V. Johnson, Edward Everett, Andrew Johnson, G. H. Pendleton, Schuyler Colfax, F. P. Blair, Jr., Henry Wilson, B. Gratz Brown, John Q. Adams, A. H. Colquitt, John M. Palmer, Geo. W. Julian, T. E. Bramlette, W. S. Groesbeck, Willis B. Machen, N. P. Banks,	72 12 39 212 21 81 214 80 23 286
1868	37	317	Republican, Democratic,	Not counted, ³				17	14
1872	37	366	Republican, Dem.&Lib.Rep., Democratic, Temperance,						5 3 5 3 1 1 1 14

¹ Not voting, Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

² Not voting, Mississippi, Texas, and Virginia.

³ Seventeen votes rejected—viz., 3 from Georgia for Horace Greeley (dead), and 8 from Louisiana and 6 from Arkansas for U. S. Grant.

PARTY GOVERNMENT

APPENDIX D—Continued

Year	No. of States	Total Elect. Votes	Party	For President	States	Popular Vote	Electoral	For Vice-President	Electoral
1876	38	369	Republican, Democratic, Greenback, Prohibition,	R. B. Hayes, S. J. Tilden, Peter Cooper, Green C. Smith,	21 17	4,033,950 4,284,885 81,740	185 184	Wm. A. Wheeler, T. A. Hendricks, S. F. Cary, R. T. Stewart,	¹ 185 184
1880	38	369	Republican, Democratic, Greenback,	James A. Garfield, W. S. Hancock, James B. Weaver, Scattering,	19 19	4,442,950 4,442,035 306,867 12,576	214 155	Chester A. Arthur, Wm. H. English, B. J. Chambers,	214 155
1884	38	401	Democratic, Republican, Prohibition, Labor,	Grover Cleveland, Jas. G. Blaine, J. P. St. John, B. F. Butler,	20 18	4,911,017 4,848,334 151,809 133,825	219 182	T. A. Hendricks, John A. Logan, Wm. Daniel, A. M. West,	219 182
1888	38	401	Republican, Democratic, Prohibition, Union Labor,	Benj. Harrison, Grover Cleveland, C. B. Fisk, A. J. Streeter,	20 18	5,441,923 5,536,524 246,406 144,608	233 168	Levi P. Morton, Allen G. Thurman,	233 168

¹ The disputed election of 1876; see page 235.

APPENDIX

1892	44	444	Democratic, Republican, People's, Prohibition, Socialist-Labor,	Grover Cleveland, Benj. Harrison, James B. Weaver, John Bidwell, Simon Wing,	23 15 6	5,554,267 5,175,201 1,042,531 269,299 21,266	277 145 22	A. E. Stevenson, Whitelaw Reid, James G. Field, J. B. Cranfill, C. H. Matchett,	277 145 22
1896	45	447	Republican, Democratic, People's, Prohibition, Nat.Prohibition, Socialist-Labor, Nat.Democratic,	William McKinley, William J. Bryan, William J. Bryan, Joshua Levering, Chas. E. Bentley, Chas. B. Matchett, John M. Palmer,	23 22	7,104,779 6,502,925 144,379 36,576 133,148	271 176	Garrett A. Hobart, Arthur Sewall, Thos. E. Watson, Hale Johnson, J. H. Southgate, Matthew Maguire, S. B. Buckner,	271 173 3
1900	45	447	Republican, Democratic, People's (Fusion) Silver Rep., Prohibition, Socialist-Labor, Social Dem., Populist, Union Reform, United Christian	William McKinley, William J. Bryan, William J. Bryan, William J. Bryan, John G. Woolley, Joseph F. Malloney, Eugene V. Debs, Wharton Barker, Seth Ellis, Jonah F. R. Leonard,	28 17	7,215,696 6,351,008 199,055 32,511 83,010 52,233 5,698 1,959	292 155	Theo. Roosevelt, Adlai E. Stevenson, Adlai E. Stevenson, Adlai E. Stevenson, Henry B. Metcalf, Valentine Rimmel, Job Harriman, Ignatius Donnelly, Sam. T. Nicholson, David H. Martin,	292 155

PARTY GOVERNMENT

APPENDIX D—Continued

Year	No. of States	Total Elect. Votes	Party	For President	States	Popular Vote	Electoral	For Vice-President	Electoral
1904	45	476	Republican, Democratic, Prohibition, Socialist, Populist, Socialist-Labor,	Theo. Roosevelt, Alton Parker, Silas C. Swallow, Eugene V. Debs, Thos. E. Watson, Chas. H. Corrigan,	32 13	7,621,407 5,079,704 258,847 402,321 113,259 33,460	336 140	Chas. W. Fairbanks, Henry G. Davis, George W. Carroll, Benjamin Hanford, Thos. H. Tibbles, William W. Cox,	336 140
1908	46	483	Republican, Democratic, Prohibition, Socialist, Independence, Populist, Socialist-Labor,	William H. Taft, William J. Bryan, Eugene W. Chafin, Eugene V. Debs, Thomas L. Hisgen, Thomas E. Watson, Martin L. Preston,	29 17	7,677,544 6,405,707 251,660 420,464 83,628 29,108 14,021	321 162	James S. Sherman, John W. Kern, Aaron S. Watkins, Benjamin Hanford, John T. Graves, Sam. W. Williams, Donald L. Munroe,	321 162

APPENDIX

1912	48	531	Democratic, Republican, Progressive, Socialist, Prohibition, Socialist-Labor,	Woodrow Wilson, William H. Taft, Theo. Roosevelt, Eugene V. Debs, Eugene W. Chafin, Arthur E. Reimer,	40 2 16	6,293,019 3,484,956 4,119,507 901,873 297,928 27,259	435 8 88	Thos. R. Marshall, Herbert S. Hadley, Hiram W. Johnson, Emil Seidel, Aaron S. Watkins, August Gillhaus,	435 8 88
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¹ California returned 2 Democratic electors and 11 Progressive.

APPENDIX E

POPULATION OF THE SECTIONS, 1790-1860

Year	Free States	Slave States
1790	1,968,453	1,961,374
1800	2,684,616	2,621,316
1810	3,758,910	3,480,902
1820	5,152,372	4,485,819
1830	7,006,399	5,848,312
1840	9,733,922	7,334,433
1850	13,599,488	9,663,997
1860	19,128,418	12,315,372

APPENDIX F

CONGRESSIONAL REPRESENTATION OF THE SECTIONS, 1790-1860

Year	Senate		House	
	Free States	Slave States	Free States	Slave States
1790	14	12	35	30
1792	16	14	57	48
1796	16	16	57	49
1800	16	16	57	49
1804	18	16	77	65
1808	18	16	77	65
1812	18	18	103	79
1816	20	18	104	79
1820	24	24	105	82
1824	24	24	123	90
1828	24	24	123	90
1832	24	24	141	99
1836	26	26	142	100
1840	26	26	142	100
1844	26	26	135	98
1848	30	30	139	91
1852	32	30	144	90
1856	32	30	144	90
1860	36	30	147	90

 To find the electoral votes, add together the number of Senators and Representatives.

APPENDIX G

THE SECTIONS IN 1870

Sections	Population in 1870	Senate	House	Elect. Votes
THE SOUTH: (Ala., Ark., Fla., Ga., Ky., La., Md., Miss., N. C., S. C., Tenn., Tex., Va., W. Va.)	12,032,225	28	92	120
THE NORTHWEST: (Ill., Ia., Ind., Kan., Mich., Minn., Mo., Neb., O., Wis.)	12,702,299	20	98	118
THE MIDDLE STATES: (Del., N. J., N. Y., Penn.)	8,941,625	8	68	76
NEW ENGLAND: (Conn., Mass., Me., N. H., R. I., Vt.)	3,187,924	12	28	40
THE PACIFIC: (Cal., Col., Nev., Ore.)	889,789	8	7	15
Total	38,925,598	76	293	369

 The total population includes Territories and Indians.

THE SECTIONS IN 1880

Sections	Population in 1880	Senate	House *	Elect. Votes
THE SOUTH	16,188,757	28	106	134
THE NORTHWEST	17,229,810	20	114	134
THE MIDDLE STATES	10,644,233	8	70	78
NEW ENGLAND	4,010,438	12	26	38
THE PACIFIC	1,296,367	8	9	17
Total	50,155,783	76	325	401

 The total population includes Territories and Indians. The Apportionment Act of February 25, 1882, took effect March 3, 1883.

APPENDIX

APPENDIX G—Continued

THE SECTIONS IN 1890

Sections	Population in 1890	Senate	House	Elect. Votes
THE SOUTH.....	19,370,094	28	111	139
THE NORTHWEST.....	22,362,279	24	128	152
THE MIDDLE STATES.....	12,869,293	8	73	81
NEW ENGLAND.....	4,700,745	12	27	39
THE PACIFIC.....	2,814,400	18	18	36
Total.....	62,830,155	90	357	447

 The new States of Montana, Washington, Idaho, Wyoming, and Utah are classed with the Pacific States. The Dakotas are classed with the Northwest. The total population includes the Territories. The Apportionment Act of Feb. 7, 1891, took effect March 3, 1893.

THE SECTIONS IN 1900

Sections	Population in 1900	Senate	House*	Elect. Votes
THE SOUTH.....	23,271,689	28	120	148
THE NORTHWEST.....	26,335,243	24	136	160
THE MIDDLE STATES.....	15,638,531	8	80	88
NEW ENGLAND.....	5,591,952	12	29	41
THE PACIFIC.....	3,773,108	18	21	39
Total.....	76,215,132	90	386	476

 The States of Montana, Washington, Idaho, Wyoming, and Utah are classed with the Pacific States. The Dakotas are classed with the Northwest. The total population includes the Territories (Alaska, Arizona, District of Columbia, Hawaii, Indian Territory, New Mexico, Oklahoma). The population of Porto Rico was 953,243 according to the census of 1900.

* According to the Apportionment Act, passed January 11, 1901, in effect March 3, 1903.

PARTY GOVERNMENT

APPENDIX G—*Continued*

THE SECTIONS IN 1910-1913

Sections	Population in 1910	Senate	House	Elect. Votes*
THE SOUTH.....	29,187,008	30	135	165
THE NORTHWEST.....	29,888,542	24	143	167
THE MIDDLE STATES.....	19,518,214	8	92	100
NEW ENGLAND.....	6,825,821	12	32	44
THE PACIFIC.....	6,552,681	22	33	55
Total.....	91,972,266	96	435	531

~~108~~ The States of Montana, Washington, Idaho, Wyoming, Utah, Arizona, and New Mexico are classed with the Pacific States. The estimates of population for 1914 set the figures as follows: Continental United States, 97,759,000; Philippines, 8,460,052; Porto Rico, 1,151,579; Hawaii, 200,065; Tutuila, Samoa, 7,251; Guam, 12,517. The total of these figures is 107,590,464.

* According to the Apportionment Act, passed August 8, 1911, in effect March 3, 1913.

APPENDIX H

CABINET OFFICERS OF THE ADMINISTRATIONS

I and II; 1789-1797 (page 56)

Secretary of State, Thomas Jefferson, Virginia, September 26, 1789; Edmund Randolph, Virginia, January 2, 1794; Timothy Pickering, Pennsylvania, December 10, 1795. *Secretary of Treasury*, Alexander Hamilton, New York, September 11, 1789; Oliver Wolcott, Connecticut, February 2, 1795. *Secretary of War*, Henry Knox, Massachusetts, September 12, 1789; Timothy Pickering, Pennsylvania, January 2, 1795; James McHenry, Maryland, January 27, 1796. *Attorney-General*, Edmund Randolph, Virginia, September 26, 1789; William Bradford, Pennsylvania, January 27, 1794; Charles Lee, Virginia, December 10, 1795. *Postmaster-General*,¹ E. Hazard, January 28, 1782-September 29, 1789; Samuel Osgood, Massachusetts, September 29, 1789; Timothy Pickering, Pennsylvania, August 12, 1791; Joseph Habersham, Georgia, February 25, 1795.

III; 1797-1801 (page 72)

Secretary of State, Timothy Pickering, continued; John Marshall, Virginia, May 13, 1800. *Secretary of Treasury*, Oliver Wolcott, continued; Samuel Dexter, Massachusetts, January 1, 1801. *Secretary of War*, James McHenry, continued; Samuel Dexter, Massachusetts, May 13, 1800; Roger Griswold, Connecticut, February 3, 1801. *Secre-*

¹ Not a Cabinet officer, but a subordinate of the Treasury Department until 1829.

PARTY GOVERNMENT

tary of Navy,¹ George Cabot, Massachusetts, May 3, 1798; Benjamin Stoddert, Maryland, May 21, 1798. *Attorney-General*, Charles Lee, continued; Theophilus Parsons, Massachusetts, February 20, 1801. *Postmaster-General*, Joseph Habersham, continued.

IV and V; 1801-1809 (page 81)

Secretary of State, James Madison, Virginia, March 5, 1801. *Secretary of Treasury*, Samuel Dexter, continued; Albert Gallatin, Pennsylvania, May 14, 1801. *Secretary of War*, Henry Dearborn, Massachusetts, March 5, 1801. *Secretary of Navy*, Benjamin Stoddert, continued; Robert Smith, Maryland, July 15, 1801; Jacob Crowninshield, Massachusetts, May 3, 1805. *Attorney-General*, Levi Lincoln, Massachusetts, March 5, 1801; Robert Smith, Maryland, March 3, 1805; John Breckinridge, Kentucky, August 7, 1805; Cæsar A. Rodney, Pennsylvania, January 20, 1807. *Postmaster-General*, Joseph Habersham, continued; Gideon Granger, Connecticut, November 28, 1801.

VI and VII; 1809-1817 (page 99)

Secretary of State, Robert Smith, Maryland, March 6, 1809; James Monroe, Virginia, April 2, 1811. *Secretary of Treasury*, Albert Gallatin, continued; George W. Campbell, Tennessee, February 9, 1814; A. J. Dallas, Pennsylvania, October 6, 1814; William H. Crawford, Georgia, October 22, 1816. *Secretary of War*, William Eustis, Massachusetts, March 7, 1809; John Armstrong, New York, January 13, 1813; James Monroe, Virginia, Sep-

¹ Naval affairs were under the control of the Secretary of War until a separate Navy Department was organized by Act of April 30, 1798. The acts organizing the other Departments were of the following dates: *State*, September 15, 1789; *Treasury*, September 2, 1789; *War*, August 7, 1789. The Attorney-General's duties were regulated by the Judiciary Act of September 24, 1789. *Interior*, March, 3, 1849.

APPENDIX

tember 27, 1814; William H. Crawford, Georgia, August 1, 1815. *Secretary of Navy*, Paul Hamilton, South Carolina, March 7, 1809; William Jones, Pennsylvania, January 12, 1813; B. W. Crowninshield, Massachusetts, December 19, 1814. *Attorney-General*, C. A. Rodney, continued; William Pinckney, Maryland, December 11, 1811; Richard Rush, Pennsylvania, February 10, 1814. *Postmaster-General*, Gideon Granger, continued; Return J. Meigs, Ohio, March 17, 1814.

VIII and IX; 1817-1825 (page 117)

Secretary of State, John Quincy Adams, Massachusetts, March 5, 1817. *Secretary of Treasury*, William H. Crawford, continued. *Secretary of War*, George Graham, Virginia, April 7, 1817; John C. Calhoun, South Carolina, October 8, 1817. *Secretary of Navy*, B. W. Crowninshield, continued; Smith Thompson, New York, November 9, 1818; John Rogers, Massachusetts, September 1, 1823; Samuel L. Southard, New Jersey, September 16, 1823. *Attorney-General*, Richard Rush, continued; William Wirt, Virginia, November 13, 1817. *Postmaster-General*, R. J. Meigs, continued; John McLean, Ohio, June 26, 1823.

X; 1825-1829 (page 125)

Secretary of State, Henry Clay, Kentucky, March 7, 1825. *Secretary of Treasury*, Richard Rush, Pennsylvania, March 7, 1825. *Secretary of War*, James Barbour, Virginia, March 7, 1825; Peter B. Porter, New York, May 26, 1828. *Secretary of Navy*, S. L. Southard, continued. *Attorney-General*, William Wirt, continued. *Postmaster-General*, John McLean, continued.

XI and XII; 1829-1837 (page 134)

Secretary of State, Martin Van Buren, New York, March 6, 1829; Edward Livingston, Louisiana, May 24, 1831;

PARTY GOVERNMENT

Louis McLane, Delaware, May 29, 1833; John Forsyth, Georgia, June 27, 1834. *Secretary of Treasury*, Samuel D. Ingham, Pennsylvania, March 6, 1829; Louis McLane, Delaware, August 8, 1831; William J. Duane, Pennsylvania, May 29, 1833; Roger B. Taney, Maryland, September 23, 1833; Levi Woodbury, New Hampshire, June 27, 1834. *Secretary of War*, John H. Eaton, Tennessee, March 9, 1829; Lewis Cass, Michigan, August 1, 1831; Benjamin F. Butler, New York, March 3, 1827. *Secretary of Navy*, John Branch, North Carolina, March 9, 1829; Levi Woodbury, New Hampshire, May 23, 1831; Mahlon Dickerson, New Jersey, June 30, 1834. *Attorney-General*, John M. Berrien, Georgia, March 9, 1829; Roger B. Taney, Maryland, July 20, 1831; Benjamin F. Butler, New York, November 15, 1833. *Postmaster-General*, William T. Barry, Kentucky, March 9, 1829; Amos Kendall, Kentucky, May 1, 1835.

XIII; 1837-1841 (page 152)

Secretary of State, John Forsyth, continued. *Secretary of Treasury*, Levi Woodbury, continued. *Secretary of War*, Joel R. Poinsett, South Carolina, March 7, 1837. *Secretary of Navy*, Mahlon Dickerson, continued; James K. Paulding, New York, June 25, 1838. *Attorney-General*, Benjamin F. Butler, continued; Felix Grundy, Tennessee, July 5, 1838; Henry D. Gilpin, Pennsylvania, January 11, 1840. *Postmaster-General*, Amos Kendall, continued; John M. Niles, Connecticut, May 19, 1840.

XIV; 1841-1845 (page 161)

Secretary of State, Daniel Webster, Massachusetts, March 5, 1841; Hugh S. Legare, South Carolina, May 9, 1843; A. P. Upshur, Virginia, July 24, 1843; John C. Calhoun, South Carolina, March 6, 1844. *Secretary of Treasury*, Thomas Ewing, Ohio, March 5, 1841; Walter Forward, Pennsylvania, September 13, 1841; John C.

APPENDIX

Spencer, New York, March 3, 1843; George M. Bibb, Kentucky, June 15, 1844. *Secretary of War*, John Bell, Tennessee, March 5, 1841; John McLean, Ohio, September 13, 1841; John C. Spencer, New York, October 12, 1841; James M. Porter, Pennsylvania, March 8, 1843; William Wilkins, Pennsylvania, February 15, 1844. *Secretary of Navy*, G. E. Badger, North Carolina, March 5, 1841; A. P. Upshur, Virginia, September 13, 1841; David Henshaw, Massachusetts, July 24, 1843; T. W. Gilmer, Virginia, February 15, 1844; John Y. Mason, Virginia, March 14, 1844. *Attorney-General*, John J. Crittenden, Kentucky, March 5, 1841; Hugh S. Legare, South Carolina, September 13, 1841; John Nelson, Maryland, July 1, 1843. *Postmaster-General*, Francis Granger, New York, March 6, 1841; Charles A. Wickliffe, Kentucky, September 13, 1841.

XV; 1845-1849 (page 170)

Secretary of State, James Buchanan, Pennsylvania, March 6, 1845. *Secretary of Treasury*, Robert J. Walker, Mississippi, March 6, 1845. *Secretary of War*, William L. Marcy, New York, March 6, 1845. *Secretary of Navy*, George Bancroft, Massachusetts, March 10, 1845; John Y. Mason, Virginia, September 9, 1846. *Attorney-General*, John Y. Mason, Virginia, March 5, 1845; Nathan Clifford, Maine, October 17, 1846. *Postmaster-General*, Cave Johnson, Tennessee, March 6, 1845.

XVI; 1849-1853 (page 179)

Secretary of State, John M. Clayton, Delaware, March 7, 1849; Daniel Webster, Massachusetts, July 22, 1850; Edward Everett, Massachusetts, December 6, 1852. *Secretary of Treasury*, W. M. Meredith, Pennsylvania, March 8, 1849; Thomas Corwin, Ohio, July 23, 1850. *Secretary of War*, George W. Crawford, Georgia, March 8, 1849; Winfield Scott (*ad interim*), July 23, 1850; Charles M.

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Conrad, Louisiana, August 15, 1850. *Secretary of Navy*, William B. Preston, Virginia, March 8, 1849; William A. Graham, North Carolina, July 22, 1850; J. P. Kennedy, Maryland, July 22, 1852. *Secretary of Interior*,¹ Thomas H. Ewing, Ohio, March 8, 1849; A. H. H. Stuart, Virginia, September 12, 1850. *Attorney-General*, Reverdy Johnson, Maryland, March 8, 1849; John J. Crittenden, Kentucky, July 22, 1850. *Postmaster-General*, Jacob Collamer, Vermont, March 8, 1849; Nathan K. Hall, New York, July 23, 1850; S. D. Hubbard, Connecticut, August 31, 1852.

XVII; 1853-1857 (page 188)

Secretary of State, William L. Marcy, New York, March 7, 1853. *Secretary of Treasury*, James Guthrie, Kentucky, March 7, 1853. *Secretary of War*, Jefferson Davis, Mississippi, March 7, 1853. *Secretary of Navy*, James C. Dobbin, North Carolina, March 7, 1853. *Secretary of Interior*, Robert McClelland, Michigan, March 7, 1853. *Attorney-General*, Caleb Cushing, Massachusetts, March 7, 1853. *Postmaster-General*, James Campbell, Pennsylvania, March 7, 1853.

XVIII; 1857-1861 (page 197)

Secretary of State, Lewis Cass, Michigan, March 6, 1857; J. S. Black, Pennsylvania, December 17, 1860. *Secretary of Treasury*, Howell Cobb, Georgia, March 6, 1857; Philip F. Thomas, Maryland, December 12, 1860; John A. Dix, New York, January 11, 1861. *Secretary of War*, John B. Floyd, Virginia, March 6, 1857; Joseph Holt, Kentucky, January 18, 1861. *Secretary of Navy*, Isaac Toucey, Connecticut, March 6, 1857. *Secretary of Interior*, Jacob Thompson, Mississippi, March 6, 1857. *Attorney-General*, J. S. Black, Pennsylvania, March 6, 1857; E. M.

¹ Organized by Act of March 3, 1849.

APPENDIX

Stanton, Pennsylvania, December 20, 1860. *Postmaster-General*, Aaron V. Brown, Tennessee, March 6, 1857; Joseph Holt, Kentucky, March 14, 1859; Horatio King, Maine, February 12, 1861.

XIX and XX; 1861-1869 (page 207)

Secretary of State, William H. Seward, New York, March 5, 1861. *Secretary of Treasury*, S. P. Chase, Ohio, March 5, 1861; W. P. Fessenden, Maine, July 1, 1864; Hugh McCulloch, Indiana, March 7, 1865. *Secretary of War*, Simon Cameron, Pennsylvania, March 5, 1861; Edwin M. Stanton, Pennsylvania, January 15, 1862; U. S. Grant (*ad interim*), August 12, 1867; Edwin M. Stanton (reinstated), January 14, 1868; J. M. Scofield, Illinois, May 28, 1868. *Secretary of Navy*, Gideon Welles, Connecticut, March 5, 1861. *Secretary of Interior*, Caleb P. Smith, Indiana, March 5, 1861; John P. Usher, Indiana, January 8, 1863; James Harlan, Iowa, May 15, 1865; O. H. Browning, Illinois, July 27, 1866. *Attorney-General*, Edward Bates, Missouri, March 5, 1861; Titian J. Coffey, Pennsylvania, June 22, 1863; James Speed, Kentucky, December 2, 1864; Henry Stanbery, Ohio, July 23, 1866; William M. Evarts, New York, July 15, 1868. *Postmaster-General*, Montgomery Blair, Maryland, March 5, 1861; William Dennison, Ohio, September 24, 1864; Alexander W. Randall, Wisconsin, July 25, 1866.

XXI and XXII; 1869-1877 (page 226)

Secretary of State, E. B. Washburne, Illinois, March 5, 1869; Hamilton Fish, New York, March 11, 1869. *Secretary of Treasury*, George S. Boutwell, Massachusetts, March 11, 1869; William A. Richardson, Massachusetts, March 17, 1873; Benjamin H. Bristow, Kentucky, June 2, 1874; Lot M. Merrill, Maine, June 21, 1876. *Secretary of War*, John A. Rawlins, Illinois, March 11, 1869; William T. Sherman, Ohio, September 9, 1869; William

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W. Belknap, Iowa, October 25, 1869; Alphonso Taft, Ohio, March 8, 1876; J. D. Cameron, Pennsylvania, May 22, 1876. *Secretary of Navy*, Adolph E. Borie, Pennsylvania, March 5, 1869; George M. Robeson, New Jersey, June 25, 1869. *Secretary of Interior*, John D. Cox, Ohio, March 5, 1869; Columbus Delano, Ohio, November 1, 1870; Zachariah Chandler, Michigan, October 19, 1875. *Attorney-General*, E. R. Hoar, Massachusetts, March 5, 1869; Amos T. Akerman, Georgia, June 23, 1870; George H. Williams, Oregon, December 14, 1871; Edwards Pierrepont, New York, April 26, 1875; Alphonso Taft, Ohio, May 22, 1876. *Postmaster-General*, J. A. J. Creswell, Maryland, March 5, 1869; Marshall Jewell, Connecticut, August 24, 1874; James M. Tyner, Indiana, July 12, 1876.

XXIII; 1877-1881 (page 237)

Secretary of State, William M. Evarts, New York, March 12, 1877. *Secretary of Treasury*, John Sherman, Ohio, March 8, 1877. *Secretary of War*, George W. McCrary, Iowa, March 12, 1877; Alexander Ramsey, Minnesota, December 12, 1879. *Secretary of Navy*, Richard W. Thompson, Indiana, March 12, 1877; Nathan Goff, Jr., West Virginia, January 6, 1881. *Secretary of Interior*, Carl Schurz, Missouri, March 12, 1877. *Attorney-General*, Charles Devens, Massachusetts, March 12, 1877. *Postmaster-General*, David M. Key, Tennessee, March 12, 1877; Horace Maynard, Tennessee, August 25, 1880.

XXIV; 1881-1885 (page 241)

Secretary of State, James G. Blaine, Maine, March 5, 1881; Frederick T. Frelinghuysen, New Jersey, December 12, 1881. *Secretary of Treasury*, William H. Windom, Minnesota, March 5, 1881; Charles J. Folger, New York, October 27, 1881. *Secretary of War*, Robert T. Lincoln, Illinois, March 5, 1881. *Secretary of Navy*, W. H. Hunt, Louisiana, March 5, 1881; Wm. E. Chandler, New Hamp-

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shire, April 12, 1882. *Secretary of Interior*, S. J. Kirkwood, Iowa, March 5, 1881; Henry M. Teller, Colorado, April 6, 1882. *Attorney-General*, Wayne MacVeagh, Pennsylvania, March 5, 1881; Benjamin H. Brewster, Pennsylvania, December 16, 1881. *Postmaster-General*, Thomas L. James, New York, March 5, 1881; Timothy O. Howe, Wisconsin, December 20, 1881; W. Q. Gresham, Indiana, April 3, 1883; Frank Hatton, Iowa, October 14, 1884.

XXV; 1885-1889 (page 247)

Secretary of State, Thomas F. Bayard, Delaware, March 6, 1885. *Secretary of Treasury*, Daniel Manning, New York, March 6, 1885; Charles S. Fairchild, New York, April 1, 1887. *Secretary of War*, William C. Endicott, Massachusetts, March 6, 1885. *Secretary of Navy*, William C. Whitney, New York, March 6, 1885. *Secretary of Interior*, Lucius Q. C. Lamar, Mississippi, March 6, 1885; William F. Vilas, Wisconsin, January 16, 1888. *Attorney-General*, Augustus H. Garland, Arkansas, March 6, 1885. *Postmaster-General*, William F. Vilas, Wisconsin, March 6, 1885; Don M. Dickinson, Michigan, January 16, 1888.

XXVI; 1889-1893 (page 252)

Secretary of State,¹ James G. Blaine, Maine, March 7, 1889; John W. Foster, Indiana, June 29, 1892. *Secretary of Treasury*, William Windom, Minnesota, March 7, 1889; Charles Foster, Ohio, February 25, 1891. *Secretary of War*, Redfield Proctor, Vermont, March 7, 1889; Stephen B. Elkins, West Virginia, December 24, 1891. *Attorney-General*, W. H. H. Miller, Indiana, March 7, 1889. *Postmaster-General*, John Wanamaker, Pennsylvania, March 7, 1889. *Secretary of Navy*, Benjamin F.

¹ The Cabinet is here arranged in the order of succession for the presidency according to the Act of Forty-ninth Congress, which does not, however, include the Secretary of Agriculture.

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Tracy, New York, March 7, 1889. *Secretary of Interior*, John W. Noble, Missouri, March 7, 1889. *Secretary of Agriculture*, Jeremiah M. Rusk, Wisconsin, March 7, 1889.¹

XXVII; 1893-1897 (page 258)

Secretary of State, Walter Q. Gresham, Illinois, March 7, 1893; Richard Olney, Massachusetts, June 10, 1895. *Secretary of Treasury*, John G. Carlisle, Kentucky, March 7, 1893. *Secretary of War*, Daniel S. Lamont, New York, March 7, 1893. *Attorney-General*, Richard Olney, Massachusetts, March 7, 1893; Judson Harmon, Ohio, June 11, 1895. *Postmaster-General*, Wilson S. Bissell, New York, March 7, 1893; William L. Wilson, West Virginia, April 3, 1895. *Secretary of Navy*, Hilary A. Herbert, Alabama, March 7, 1893. *Secretary of Interior*, Hoke Smith, Georgia, March 7, 1893; David R. Francis, Missouri, September 3, 1896. *Secretary of Agriculture*, Julius Sterling Morton, Nebraska, March 7, 1893.

XXVIII and XXIX; 1897-1905 (page 262)

Secretary of State, John Sherman, Ohio, March 6, 1897; William R. Day, Ohio, April 26, 1898; John Hay, District of Columbia, September 20, 1898; John Hay, District of Columbia, March 5, 1901; John Hay, District of Columbia, September 14, 1901. *Secretary of Treasury*, Lyman J. Gage, Illinois, March 5, 1897; Lyman J. Gage, Illinois, March 5, 1901; Lyman J. Gage, Illinois, September 14, 1901; Leslie M. Shaw, Iowa, January 9, 1902. *Secretary of War*, Russell A. Alger, Michigan, March 5, 1897; Elihu Root, New York, August 1, 1899; Elihu Root, New York, March 5, 1901; Elihu Root, New York, September 14, 1901; William H. Taft, Ohio, February 1,

¹ Portion of Department of Interior from May 15, 1862; made a department by Act of Feb. 9, 1889.

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1904. *Attorney-General*, Joseph McKenna, California, March 5, 1897; John W. Griggs, New Jersey, January 31, 1898; John W. Griggs, New Jersey, March 5, 1901; Philander C. Knox, Pennsylvania, April 5, 1901; Philander C. Knox, Pennsylvania, September 14, 1901; William H. Moody, Massachusetts, July 1, 1904. *Postmaster-General*, James A. Gary, Maryland, March 5, 1897; Charles Emory Smith, Pennsylvania, April 21, 1898; Charles Emory Smith, Pennsylvania, March 5, 1901; Charles Emory Smith, Pennsylvania, September 14, 1901. Henry C. Payne, Wisconsin, January 9, 1902; Robert J. Wynne, Pennsylvania, October 10, 1904. *Secretary of Navy*, John D. Long, Massachusetts, March 5, 1897; John D. Long, Massachusetts, March 5, 1901; John D. Long, Massachusetts, September 14, 1901; William H. Moody, Massachusetts, April 29, 1902; Paul Morton, Illinois, July 1, 1904. *Secretary of Interior*, Cornelius N. Bliss, New York, March 5, 1897; Ethan Allen Hitchcock, Missouri, December 21, 1898; Ethan Allen Hitchcock, Missouri, March 5, 1901; Ethan Allen Hitchcock, Missouri, September 14, 1901. *Secretary of Agriculture*, James Wilson, Iowa, March 6, 1897; James Wilson, Iowa, March 3, 1901; James Wilson, Iowa, September 14, 1901. *Secretary of Commerce and Labor*,¹ George B. Cortelyou, New York, February 18, 1903; Victor H. Metcalf, California, July 1, 1904.

XXX; 1905-1909 (page 268)

Secretary of State, John Hay, District of Columbia, March 6, 1905; Elihu Root, New York, July 20, 1905; Robert Bacon, New York, January 27, 1909. *Secretary of Treasury*, Leslie M. Shaw, Iowa, March 6, 1905; George B. Cortelyou, New York, March 4, 1907. *Secretary of War*, William H. Taft, Ohio, March 6, 1905; Luke E. Wright, Tennessee, July 1, 1908. *Attorney-General*,

¹ Department was established by Act of Feb. 14, 1903.

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William H. Moody, Massachusetts, March 6, 1905; Charles J. Bonaparte, Maryland, December 17, 1906; *Postmaster-General*, George B. Cortelyou, New York, March 6, 1905; George von L. Meyer, Massachusetts, March 4, 1907. *Secretary of Navy*, Paul Morton, Illinois, March 6, 1905; Charles J. Bonaparte, Maryland, July 1, 1905; Victor H. Metcalf, California, December 17, 1906; Truman H. Newberry, Michigan, December 1, 1908. *Secretary of Interior*, Ethan Allen Hitchcock, Missouri, March 6, 1905; James R. Garfield, Ohio, March 5, 1907. *Secretary of Agriculture*, James Wilson, Iowa, March 6, 1905. *Secretary of Commerce and Labor*, Victor H. Metcalf, California, March 6, 1905; Oscar S. Straus, New York, December 17, 1907.

XXXI; 1909-1913 (page 280)

Secretary of State, Philander C. Knox, Pennsylvania, March 5, 1909. *Secretary of Treasury*, Franklin MacVeagh, Illinois, March 5, 1909. *Secretary of War*, Jacob M. Dickinson, Tennessee, March 5, 1909; Henry L. Stimson, New York, May 12, 1911. *Attorney-General*, George W. Wickersham, New York, March 5, 1909. *Postmaster-General*, Frank H. Hitchcock, Massachusetts, March 5, 1909. *Secretary of Navy*, George von L. Meyer, Massachusetts, March 5, 1909. *Secretary of Interior*, Richard A. Ballinger, Washington, March 5, 1909; Walter L. Fisher, Illinois, March 7, 1911. *Secretary of Agriculture*, James Wilson, Iowa, March 5, 1909. *Secretary of Commerce and Labor*, Charles Nagel, Missouri, March 5, 1909.

XXXII;¹ 1913- (page 300)

Secretary of State, William J. Bryan, Nebraska, March 5, 1913. *Secretary of Treasury*, William G. McAdoo,

¹ The Department of Commerce and Labor was divided into two departments by Act of March 4, 1913.

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New York, March 5, 1913. *Secretary of War*, Lindley M. Garrison, New Jersey, March 5, 1913. *Attorney-General*, James C. McReynolds, Tennessee, March 5, 1913. *Postmaster-General*, Albert S. Burleson, Texas, March 5, 1913. *Secretary of Navy*, Josephus Daniels, North Carolina, March 5, 1913. *Secretary of Interior*, Franklin K. Lane, California, March 5, 1913. *Secretary of Agriculture*, David F. Houston, Missouri, March 5, 1913. *Secretary of Commerce*, William C. Redfield, New York, March 5, 1913. *Secretary of Labor*, William B. Wilson, Pennsylvania, March 5, 1913.

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